

<b>INFORMATION TO OFFERORS OR QUOTERS</b> <b>SECTION A - COVER SHEET</b>		<b>1. SOLICITATION NUMBER</b>  <b>SP0600-00-R-0066</b>	<b>2. (X one)</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50px;"></td> <td>a. Sealed Bid</td> </tr> <tr> <td style="text-align: center;"><b>X</b></td> <td>b. Negotiated RFP</td> </tr> <tr> <td></td> <td>c. Negotiated RFQ</td> </tr> </table>			a. Sealed Bid	<b>X</b>	b. Negotiated RFP		c. Negotiated RFQ
	a. Sealed Bid									
<b>X</b>	b. Negotiated RFP									
	c. Negotiated RFQ									

**INSTRUCTIONS**

You are cautioned to note the clause K1.01-6, "AFFIRMATIVE ACTION COMPLIANCE (APR 1984)", and for the requirement that any offeror whose offer is \$50,000 or more and who has 50 or more employees, must complete the representation as to whether the offeror has developed and has on file at each establishment, affirmative action programs, as required by the rules and regulations of the Secretary of Labor.

"Fill-ins" are provided on the face and reverse of Standard Form 18 and Parts I and IV of Standard Form 33, or other solicitation documents and Sections of Table of Contents in this solicitation and should be examined for applicability.

See the provision of this solicitation entitled either "Late Bids, Modifications of Bids or Withdrawal of Bids" or "Late Submissions, Modifications and Withdrawals of Proposals".

When submitting your reply, the envelope used must be plainly marked with the Solicitation Number, as shown above and the date and local time set forth for bid opening or receipt of proposals in the solicitation document.

If NO RESPONSE is to be submitted, detach this sheet from the solicitation, complete the information requested on reverse, fold, affix postage, and mail. NO ENVELOPE IS NECESSARY.

Replies must be set forth full, accurate, and complete information as required by this solicitation (*including attachments*). The penalty for making false statements is prescribed in 18 U.S.C. 1001.

<b>3. ISSUING OFFICE (Complete mailing address, including Zip Code)</b> ATTN: <b>GAIL S. ROBINSON</b> /DESC-FPB DEFENSE ENERGY SUPPORT CENTER 8725 JOHN KINGMAN ROAD, SUITE 4950 FORT BELVOIR, VA 22060-6222				PPN: 6.2A Email: <b>grobinson@desc.dla.mil</b> FAX: 703-767-8506 TELEPHONE: <b>703-767-9337</b>	
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**4. ITEMS TO BE PURCHASED (Brief description)**  
**THIS REQUIREMENT IS TO PROVIDE AUTOMATED FUEL DELIVERY SERVICES AT A DESIGNATED SITE AT FORT. STEWART, GEORGIA.**

**PERIOD OF PERFORMANCE: BASE PERIOD OF FIVE YEARS, WITH THREE FIVE YEAR OPTIONS TO RENEW FOR A POSSIBLE TOTAL OF TWENTY YEARS.**

<b>5. PROCUREMENT INFORMATION (X and complete as applicable)</b>					
<b>X</b>	<b>a. THIS PROCUREMENT IS UNRESTRICTED</b>				
	<b>b. THIS PROCUREMENT IS A _____% SET-ASIDE FOR ONE OF THE FOLLOWING (X One). (See Section I of the Table of Contents in this solicitation for details of the set-aside.)</b>				
	(1) Small Business	(2) Labor Surplus Area Concerns	(3) Combined Small Business/Labor Area Concerns		

1. Facsimile proposals **are not authorized** for this solicitation. Please be sure that **labels of overnight mailings clearly show the solicitation number and are addressed to the Bid Custodian at the address listed below.**

2. The Government may award a contract based on initial offers received; therefore, offers should be submitted on the most favorable terms possible from a price and technical standpoint.

3. Any questions regarding this requirement should be submitted to the address in 7b below, either by mail or fax (703-767-9338) no later than July 14, 2000.

4. A pre-proposal conference is scheduled for July 19, 2000 at 9 a.m. at Ft. Stewart, Georgia. (See clause L196). You must preregister by either mailing or faxing (703-767-9338) the name(s) of the individuals who plan to attend to Gail Robinson not later than 5 p.m. on July 7, 2000.

<b>7. POINT OF CONTACT FOR INFORMATION</b>	
<b>a. NAME (Last, First, Middle Initial)</b>  <p style="text-align: center;"><b>GAIL S. ROBINSON</b></p>	<b>b. ADDRESS (Including Zip Code)</b> ATTN: <b>GAIL S. ROBINSON</b> / DESC-FPB DEFENSE ENERGY SUPPORT CENTER 8725 JOHN KINGMAN ROAD, SUITE 4950 FORT BELVOIR, VA 22060-6222
<b>c. TELEPHONE NUMBER (Including Area Code and Extension) (NO COLLECT CALLS)</b> 703-767-9337	

8. REASONS FOR NO RESPONSE <i>(X all that apply)</i>					
<input type="checkbox"/>	a. CANNOT COMPLY WITH SPECIFICATIONS		<input type="checkbox"/>	b. CANNOT MEET DELIVERY REQUIREMENTS	
<input type="checkbox"/>	c. UNABLE TO IDENTIFY THE ITEM(S)		<input type="checkbox"/>	d. DO NOT REGULARLY MANUFACTURE OR SELL THE TYPE OF ITEMS INVOLVED	
<input type="checkbox"/>	e. OTHER <i>(Specify)</i>				
9. MAILING LIST INFORMATION <i>(X one)</i>					
<input type="checkbox"/>	YES	<input type="checkbox"/>	N O	WE DESIRE TO BE RETAINED ON THE MAILING LIST FOR FUTURE PROCUREMENT OF THE TYPE OF ITEM(S) INVOLVED.	
10. RESPONDING FIRM					
a. COMPANY NAME			b. ADDRESS <i>(Including Zip Code)</i>		
c. ACTION OFFICER					
(1) Typed or Printed Name <i>(Last, First, Middle Initial)</i>		(2) Title		(3) Signature	(4) Date Signed <i>(YY-MM-DD)</i>

DD Form 1707 Reverse, MAR 90

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FROM

AFFIX  
STAMP  
HERE

SOLICITATION NUMBER	
SP0600-00-R-0066	
DATE (YYMMDD)	LOCAL TIME
00 August 14	3:00 PM

TO:     **ATTN: BID CUSTODIAN, DESC-CPC, ROOM 3729  
DEFENSE ENERGY SUPPORT CENTER  
8725 JOHN KINGMAN ROAD, SUITE 4950  
FORT BELVOIR, VA 22060-6222**

SECTION 6. ADDITIONAL INFORMATION (Continued).....

5. The following clauses are critical to your offer: **I1.07 Required Central Contractor Registration; L2.31.100 Proposal Format and Content and L87.100 Conditions for Offers.**
6. Please be certain to clearly identify all exceptions to the solicitation's terms and conditions, if any, and acknowledge receipt and acceptance of all amendments to the solicitation.
7. Notice: Any contract awarded to a Contractor who, at the time of award was suspended, debarred, ineligible for receipt of contract with Government Agencies or in receipt of a notice of proposed debarment from any Government Agency, is voidable at the option of the Government.

<b>SOLICITATION, OFFER AND AWARD</b>				1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 350)		RATING	PAGE OF PAGES 1   27	
2. CONTRACT NO.		3. SOLICITATION NO. SP0600-99-R-0066		4. TYPE OF SOLICITATION [ ] SEALED BID (IFB) [x] NEGOTIATED (RFP)		5. DATE ISSUED June 26, 2000		6. REQUISITION/PURCHASE NO.: SP0600-00-0111
7. ISSUED BY Defense Energy Support Center 8725 John J. Kingman Road, Suite 4950 Ft. Belvoir, Alexandria, VA 22060-6222 Buyer/Symbol: Gail S. Robinson / DESC-FPB Phone: 703-767-9337				CODE SCO600 PP: 6.2a Fax: 703-767-8506		8. ADDRESS OFFER TO (If other than item 7) ATTN: BID CUSTODIAN, DESC-PCC, RM. 3729 Defense Energy Support Center 8725 John Kingman Road, Suite 4950 Ft. Belvoir, Alexandria, VA 22060-6222 Fax: 703-767-8506 Verification: 703-767-8758		
NOTE: In sealed bid solicitation "offer" and "offeror" mean "bid" and "Bidder".								
SOLICITATION								
9. Sealed offers in original and <u>1 (one)</u> copies for furnishing the supplies or services in the Schedule will be received at the place specified, in the depository located in <u>DESC-PCC; Room 3729</u> until <u>3:00 PM</u> local time <u>August 14, 2000</u> (hour) (date) CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L. Provision No. 52.215-10. All offers are subject to all terms and conditions contained in this solicitation. See Clause L3.02								
10. FOR INFORMATION CALL:			A. NAME Gail Robinson			B. TELEPHONE NO. (Include Area Code) (NO COLLECT CALLS) 703-767-9337		
11. TABLE OF CONTENTS								
(x)	SEC.	DESCRIPTION		PAGE E	(x)	SEC.	DESCRIPTION PAGE	
PART I - THE SCHEDULE					PART II - CONTRACT CLAUSES			
X	A	SOLICITATION/CONTRACT FORM <b>SEE COVER SHEET</b>			X	I	CONTRACT CLAUSES 12	
X	B	SUPPLIES OR SERVICE AND PRICES/COSTS		2	PART III - LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACH.			
	C	DESCRIPTION/SPECS/WORK STATEMENT			X	J	LIST OF ATTACHMENTS 18	
	D	PACKAGING AND MARKETING			PART IV - REPRESENTATIONS AND INSTRUCTIONS			
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X	H	SPECIAL CONTRACT REQUIREMENTS		11	X	M	EVALUATION FACTORS FOR AWARD 26	
OFFER (Must be fully completed by offeror)								
NOTE: ITEM 12 does not apply if the solicitation includes the provisions at 52.214-16, Minimum Bid Acceptance Period.								
12. In compliance with the above, the undersigned agrees, if this offer is accepted within <u>120</u> calendar days (60 calendar days unless a different period is inserted by the offer) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule. * See Clause L1.02								
13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause I4)			10 CALENDAR DAYS %		20 CALENDAR DAYS %		30 CALENDAR DAYS %	
14. ACKNOWLEDGMENT OF AMENDMENTS The offeror acknowledges receipt of amendments to the solicitation for offerors and related documents numbered and dated:			AMENDMENT NO.		DATE		AMENDMENT NO. DATE	
15A. NAME OF OFFEROR (Type or print)		ADDRESS OF OFFEROR (Type or print)		CODE	FACILITY		16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)	
15B. TELEPHONE NO. (Include area code)		15C. CHECK IF REMITTANCE ADDRESS [ ] Is different from above - enter such address			17. SIGNATURE		18. OFFER DATE	
AWARD (To be completed by Government)								
19. ACCEPTED AS TO ITEM NUMBERED			20. AMOUNT			21. ACCOUNTING AND APPROPRIATION		

22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: [ ] 10 U.S.C. 2304(c)( )      [ ] 41 U.S.C. 253(c)( )		23. SUBMIT INVOICES TO ADDRESS SHOWN IN IN BLOCK      (4 copies unless otherwise specified)	ITEM
24. ADMINISTRATION BY (If other than Item 7) CODE		25. PAYMENT WILL BE MADE BY CODE	
26. NAME OF CONTRACTING OFFICER (Type of print)	27. UNITED STATES OF AMERICA BY: _____ <i>(Signature of person authorized to sign)</i>		28. AWARD DATE
IMPORTANT - Award will be made on this form, or on the Standard Form 26, or by other authorized official written notice.			

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## SECTION B - SUPPLIES OR SERVICES AND PRICES/COST

### B7.01 CANCELLATION CEILINGS (DESC OCT 1998)

(a) In the event this contract is canceled in accordance with either the CANCELLATION OF ITEMS or the CANCELLATION UNDER MULTIYEAR CONTRACTS clause, the cancellation ceilings are as listed below:

<u>CANCELLATION CEILING</u>	<u>PROGRAM YEAR</u>
56%	Second
42%	Third
28%	Fourth
14%	Fifth

(b) The cancellation ceilings above are a percentage of the total multiyear contract price. These percentages are the maximum that the Contractor can receive as damages for cancellation of the multiyear contract.

(DESC 52.249-9F10)

### B.34.01 SERVICES TO BE FURNISHED AND PRICES (DESC JUNE 2000)

The contractor will provide fuel delivery services as described below at a specified location on Ft. Stewart, Georgia. The Contractor is required to provide all manpower, equipment, material and resources as necessary to provide these services. No Government equipment or facilities will be provided to the contractor.

- LOCATION:** Government designated site on Fort Stewart, Georgia.
- PERFORMANCE REQUIREMENTS:** The contractor must have the ability to dispense (retail) fuel to a minimum of 50 various combinations of wheeled vehicles and equipment per hour with JP-8, Diesel or Gasoline and four (4) tracked vehicles per hour with JP-8. The contractor must provide automated top and bottom bulk loading capability for 6 bulk refueling vehicles (HEMTT tankers, five thousand gallon tankers and tank and pump units) per hour with aviation grade JP-8; 3 bulk refueling vehicles per hour with Diesel; and 3 bulk refueling vehicles per hour with Gasoline. Vehicle overall dimensions that will use both retail and bulk islands range from approximately 20' to 80' long, 4' to 20' wide x 14' high.

Facilities shall be equipped to support tactical equipment including tracked vehicles of approximately 60 tons in weight and wheeled vehicles transporting them. Tracked vehicles will need to be able to conduct pivot or neutral steering to traverse the refueling area or position themselves in the queue for refueling. The fuel delivery services must allow for expansion as future mission requirements may dictate for additional bulk or retail fueling operations.

- ESTIMATED USAGE:** Monthly average usage is indicated in Figure 1:

<b>PRODUCT</b>	<b>MONTHLY AVERAGE</b>
JP-8 (bulk)	133,825 gallons
JP-8 (retail)	72,059 gallons
Gasoline (bulk)	23,104 gallons
Gasoline (retail)	12,398 gallons
Diesel (bulk)	65,827 gallons
Diesel (retail)	13,492 gallons

Note: Minimum Peace Time Operating Stock Authorization (POSA) is: JP-8 aviation grade - 200,000 gallons, Gasoline – 17,700 gallons, and Diesel – 46,890 gallons.

- GRADE OF PRODUCT:** Government provided Aviation JP-8, Gasoline and Diesel.
- ADDITIONAL SERVICES:** The Government shall provide the Real Property under lease/permit conditions for the facility. The services provided under this contract shall include, as a minimum, the following:

(1) Ancillary Facilities:

(a) All tanks and facilities used to provide the services shall meet the requirements of the current American Petroleum Institute (API) Standards, National Fire Protection Association (NFPA) Codes, National Electric Codes, and all local, state, federal laws and regulations applicable to tanks and facilities of the type utilized. These facilities should meet best commercial standards with components and fixtures that allow proper service interface with military tactical and non-tactical vehicles and equipment. The Contractor shall be responsible for obtaining all permits necessary for operating these facilities, including a Clean Air Permit when required.

(b) Bulk loading racks shall be equipped with filter separators equal to or better than the requirement under API 1581. All ancillary equipment and piping in contact with JP-8 shall conform to military aviation standards.

(c) Retail dispensing pumps shall be equipped with in-line filters capable of sediment removal to 10 mg/1 or less and water removal to 10 ppm or less.

(d) Permanent grounding points and bonding cables shall be provided at bulk loading racks.

(e) Facilities shall be equipped to provide air and water for vehicle servicing.

(f) Retail dispensing pumps shall be configured with adequate energy efficient lighting for a 24-hour/day operation and automated key lock system for self-service by the customer. The truck bulk loading rack shall be configured with adequate, energy efficient lighting and automated key lock system for operation during normal business hours and during all contingencies as stated in 5. (5)(a). Bulk loading must be supervised by the contractor.

(g) Automated facility shall consist of latest version of DoD standard source data collection equipment (Fuel Master 2550) and shall be designed to interface all receipts, bulk and retail issues and accounting transactions to the Fuels Automated System (FAS).

- (1) The Fuels Automated System (FAS) is an Automated Information System (AIS) designed to support the Defense Energy Support Center (DESC) and the Military Services in performing their responsibilities in fuel management and distribution. FAS is a multi-functional AIS which provides for point of sale data collection, inventory control, finance and accounting, procurement, and facilities management. The contractor shall furnish computer equipment capable of running/interfacing with FAS software programs. Hardware specifications are established by DESC-S. Contractor will coordinate with appropriate POC to determine hardware requirements.

**Note:** The monthly telephone bill used for the FAS will be reimbursed by the Government upon presentation of supporting documentation and an invoice certified by the COR. No fees or administrative charges are allowed to be added to the invoice.

(h) The Contractor shall adhere to the Ft. Stewart Installation Design Guide.

(i) The Contractor shall provide weekly project status reports during construction to the Contracting Officer and COR prior to the start of performance.

(j) The facility shall provide for safe access and exit and a safe traffic pattern within the facility. Traffic flow pattern to and from the facility shall be provided by the installation during the preproposal conference.

(k) Tank truck bulk loading and vehicle retail pump dispensing areas shall be provided with a weather cover. The Contractor shall ensure that the underside of the cover is high enough to allow operator adequate clearance when walking on top of the tank trucks.

(l) The Contractor shall ensure all fuel control meters are calibrated semi-annually.

(m) The facility shall be enclosed with security fencing IAW installation policy.

- (n) The Contractor shall provide an auxiliary power source to enable the facility to be operational 24 hours per day during power outage and emergency situations.
- (o) No off-site tie-in is available for septic system and storm water drain.
- (p) Utilities tie-in points will be provided by installation.

(2) Operations:

- (a) Ft. Stewart Director of Readiness (DOR) shall provide the contractor with a complete list of vehicles and equipment authorized key access to automated dispensing fuel facility. The list shall include all information required for the Contractor's input to the database.
- (b) The contractor shall be responsible for issuing and revoking keys as requested in writing from the DOR. The Contractor shall issue keys within five working days after receiving the written request from DOR for additional requirements. Request for replacement keys shall be verified by signature of the COR.
- (c) The Contractor shall maintain databases as necessary to provide all reports required by the contract, including but not limited to, customer account numbers, responsible office for keycard holders, keycard serial numbers, and other keycard data. The Contractor shall provide required reports as prescribed by the DOR.
- (d) The Contractor shall maintain inventory accountability IAW contract clause I119.04, or as directed by the COR.
- (e) The Contractor shall establish a written product quality control plan and quality control procedures IAW API and Army requirements for aviation and ground fuels to include daily Aqua-Glo tests on JP8 bulk loading rack, monthly filter effectiveness sampling on all filter separators, semi-annual bulk storage tank samples and random receipt samples. All receipts shall be visually examined for clear and bright condition and API gravity taken to verify product grade prior to unloading.
- (f) The Contractor shall develop and maintain a Spill Contingency Plan for the facility that interfaces with the Ft. Stewart Oil and Hazardous Substance Spill Prevention and Response Plan. The Contractor shall provide a means of immediately notifying the installation Fire Department of any emergency 24 hours a day IAW NFPA provisions.

(3) Product Resupply Ordering:

- (a) Resupply orders for JP-8, gasoline and diesel will be submitted by the Contractor to the Defense Energy Support Center Houston (DESC-HU). The Contractor shall place orders in advance as prescribed by DESC-HU for resupply of bulk product to ensure timely order and delivery.

(4) Product Receipt:

- (a) The Contractor shall ensure that the receipt tanks are gauged before and after tank truck receipt and when netted to 60 degrees Fahrenheit is compared with the issue tank figure to determine variance. Complete documentation for each delivery shall be forwarded to DESC-HU.
- (b) The Contractor shall be responsible for government-owned petroleum product IAW clause I116 and I119.04.

(5) Manning Requirement and Emergency Contact:

- (a) The contractor must have an individual who can be contacted at any time for matters pertaining to the facilities.
- (b) The Contractor shall establish a quarterly training program to provide training to military personnel on the operation of the bulk loading rack and dispensing pumps to ensure safety and proper operation during use and to prevent spills.
- (c) The Contractor shall provide an individual after normal working hours to supervise the bulk loading during unit deployment and exercises on a 2 hour notification by the DOR.

- (d) Emergency contact numbers will be provided to the contractor. The Ft. Stewart Oil and Hazardous Substance Spill Prevention and Response Plan will be available and applicable telephone numbers for emergency response team, fire department and other personnel as required by the installation.
- (e) The Contractor shall be responsible for spill response, spill containment and any clean up associated with spills IAW clause H19 and the Ft. Stewart Oil and Hazardous Substance Spill Prevention and Response Plan. In the event of a spill, the Contractor shall notify installation officials IAW the Spill Plan. Contractor shall be responsible for proper disposal of contaminated items associated with any spill and any required remediation.
- (f) The Contractor shall perform and maintain reports, notifications, tests, and inspections as necessary. Records of said items will be available upon request and kept on file for the period mandated by local, state or federal regulatory requirements.

**6. QUALITY SURVEILLANCE PLAN**

- (a) The contractor will develop a quality surveillance plan (QSP) for monitoring contract performance. This plan will be submitted to the Contracting Officer for review and approval within 60 days after contract award. Any disagreements regarding the QSP will be resolved at least one level higher than the Contracting Officer.

7. **CONTRACT PERFORMANCE PERIOD:** The contract shall be for a period of five (5) years with three 5-year renewal options.

**CONTRACT LINE ITEM 1001 (MUCC):** The prices for the services and facility to be provided during the performance of the initial 5 year period and the three optional 5 year periods (See clause L87.100(b)):

**BASE PERIOD**

**PRICE PER MONTH**

Years 1 through 5

\$ \_\_\_\_\_

**FIRST OPTION**

Years 6 through 10

\$ \_\_\_\_\_

**SECOND OPTION**

Years 11 through 15

\$ \_\_\_\_\_

**THIRD OPTION**

Years 16 through 20

\$ \_\_\_\_\_

**SUBLINE ITEM 1002 - NOT TO EXCEED \$ \_\_\_\_\_/YR. (COMM)**

a. FAS Telephone Line and Facsimile Telephone:

The Contractor will be reimbursed for direct out-of pocket costs for the FAS Telephone Line and Facsimile Telephone. Invoices for reimbursement shall be certified by the QSR and include supporting documentation.

**SUBLINE ITEM 1003 - NOT TO EXCEED \$ \_\_\_\_\_/YR. (PSMM)**

a. Contractor is to provide **6500** initial keys/cards the first contract year. At the start of second and subsequent years, the contractor shall provide **100** keys/cards annually as required by the DOL/COR at a cost of \$ \_\_\_\_\_ PER KEY.

**SUBLINE ITEM 1004 - NOT TO EXCEED \$ \_\_\_\_\_/YR. (OVRT)**

a. Contractor shall be reimbursed for work performed outside normal working hours when authorized by the DOL/COR. Contractor shall be paid at a per hour rate of \$ \_\_\_\_\_ PER HOUR.

**SUBLINE ITEM 1005 - NOT TO EXCEED \$ \_\_\_\_\_/YR. (SLFE)**

a. Contractor will be reimbursed for direct out-of pocket costs only for any federal, state or local real estate tax, or other taxes on facility, if assessed. Invoices for reimbursement shall be certified by the QSR and include supporting documentation.

**SUBLINE ITEM 1006 - NOT TO EXCEED \$ \_\_\_\_\_/YR. (PSMM)**

a. Contractor will be reimbursed for direct out-of pocket costs only for the replacement of stolen or damaged fire extinguishers in excess of 10 each per year. Invoices for reimbursement shall be certified by the QSR and include supporting documentation.

(DESC 52.210-9F02)

## SECTION E - INSPECTION AND ACCEPTANCE

### **E1.01 CONTRACTOR RESPONSIBILITY FOR GOVERNMENT INSPECTION OF SERVICES (DESC AUG 1981)**

If any inspection or test is made by the Government on the premises of the Contractor or subcontractor, the Contractor without additional charge shall provide all reasonable facilities and assistance for the safety and convenience of the Government inspectors in the performance of their duties. (DESC 52.246-9F04)

### **E5.03 INSPECTION OF SERVICES - FIXED-PRICE (AUG 1996)**

(a) **DEFINITION. Services**, as used in this clause, includes services performed, workmanship, and material furnished or utilized in the performance of services.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.

(c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable, at all times and places during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.

(d) If the Government performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of these duties.

(e) If any of the services do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.

(f) If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Government that is directly related to the performance of such service or (2) terminate the contract for default.

(FAR 52.246-4)

### **E22.01 QUALITY REPRESENTATIVE (DESC JUL 1992)**

The Quality Office assigned inspection responsibility under this contract is

**DEFENSE ENERGY SUPPORT CENTER - HOUSTON**  
**2320 LaBranch, Room 1005**  
**Houston, Texas 77004-1091**

**Tel: 713-718-3883, Ext. 401**

## SECTION F - DELIVERIES OR PERFORMANCE

### **F1.14 DETERMINATION OF QUANTITY (STORAGE) (DESC NOV 1997)**

The total gallonage received into or shipped from the Contractor's facilities shall be determined as follows:

(a) **RECEIPTS OR SHIPMENTS OF CRUDE AND FUELS OTHER THAN RESIDUAL FUELS** (by transport truck of 3500 gallons or less) (truck and trailer combination when delivering same product will be considered as one container or conveyance). On an actual gallonage basis, without temperature correction.

(b) **RECEIPTS OR SHIPMENTS OF RESIDUAL FUELS** (in excess of 3500 gallons of crude or other fuels by tank car or transport truck). On a gallonage basis corrected to 60°F.

(c) **RECEIPTS OR SHIPMENTS BY TANKER OR BARGE OR PIPELINE.** On a gallonage basis corrected to 60°F. Quantities shipped or received will be determined on the basis of shore tanks or tender gauges taken by the Contractor and authenticated by the Quality Representative (QR). The ship or carrier's representative may participate in these determinations. During the gauging of shore tanks, the tanker, barge, or carrier's representative may participate in the quantity determinations, and, in the case of

tanker/barge shipments or receipts, the Contractor may participate in the operations on board the tanker or barge which are required to determine the quantity of product in the tanker or barge cargo tanks.

(d) In the case of receipts, the Contractor shall sign the bill of lading and other related documents for the actual quantity received as determined above. When requested by the QR, the Contractor shall investigate losses or gains in connection with receipts or shipments to determine if the cause is at the Contractor's facility.

(e) **MEASUREMENT STANDARDS.** All measurements and calibrations made to determine quantity shall be in accordance with the most recent edition of the API Manual of Petroleum Measurement Standards (MPMS). Outside the United States, other technically equivalent national or international standards may be used. In addition, the following specific standards will be the referee method.

(1) *API MPMS Chapter 11.1, Volume Correction Factors (API 2540/ASTM D 1250/IP 200/ISO 91-1).* Either the printed version or the computer subroutine version of the standard may be used. In case of disputes, the computer subroutine will be the referee method.

(i) *For crude oils, JP4, and Jet B, use Volume I, Tables 5A and 6A (or Volume VII Tables 53A and 54A).*

(ii) *For lubricating oils, use Volume XIII, Tables 5D and 6D (or Volume XIV, Tables 53D and 54D).*

(iii) *For all other fuels and fuel oils, use Volume II, Tables 5B and 6B (or Volume VIII, Tables 53B and 54B).*

(iv) *For chemicals/additives, use Volume III, Table 6C (or Volume IX, Table 54C), or volume correct in accordance with the product specification.*

(v) *Volume XII, Table 52, shall be used to convert cubic meters at 15°C to barrels at 60°F. Convert liters at 15°C to cubic meters at 15°C by dividing by 1,000. Convert gallons at 60°F to barrels at 60°F by dividing by 42. Should foreign law restrict conversion by this method, the method required by law shall be stated in the offer.*

(vi) *If the original measurement is by weight and quantity is required in U.S. gallons, then--*

(A) *Volume XII, Table 58, shall be used to convert metric tons to U.S. gallons at 60°F/ Convert kilograms to metric tons by dividing by 1,000.*

(B) *Volume XI, Table 8, shall be used to convert pounds to U.S. gallons at 60°F.*

(2) *API MPMS Chapter 4, Providing Systems.* All meters used in determining product volume shall be calibrated using this standard with the frequency required by local regulations (foreign or domestic). If no local regulation exists, then the frequency of calibration shall be that recommended by the meter manufacturer or every 6 months, whichever is more frequent.

(3) *API MPMS Chapter 12, Calculation of Petroleum Quantities.* All calculations of net quantities shall be made in accordance with this chapter.

(f) In addition to gauging of storage tanks to determine quantities issued or received, the Contractor will gauge each active storage tank daily and each inactive storage tank weekly and compute physical inventories for the purpose of detecting loss of products.

(DESC 52.211-9FG1)

## SECTION G - CONTRACT ADMINISTRATION DATA

### **G1 POSTAWARD CONFERENCE (DEC 1991)**

The Contractor agrees to attend any postaward conference convened by the contracting activity or contract administration office in accordance with Federal Acquisition Regulation Subpart 42.5.

(DFARS 252.242-7000)

### **G3 INVOICE NUMBERING REQUIREMENTS (DESC AUG 1998)**

Each invoice submitted for payment under this contract shall be identified by an individual invoice number. The number shall not be duplicated on subsequent invoices. Duplicate invoice numbers or invoices that do not include numbers may be rejected.

(DESC 52.211-9FH5)

### **G3.01 PAYMENT DUE DATE (DESC OCT 1988)**

When payment due date falls on a Saturday or Sunday, or on a United States Official Federal holiday, payment will be due and payable on the following workday.

### **G9.07 ELECTRONIC TRANSFER OF FUNDS PAYMENTS - CORPORATE TRADE EXCHANGE (DESC OCT 1997)**

See Offeror Submission Package, Attachment 1



**G9.09 PAYMENT BY ELECTRONIC FUNDS TRANSFER - CENTRAL CONTRACTOR REGISTRATION (MAY 1999)**

**(a) METHOD OF PAYMENT.**

(1) All payments by the Government under this contract, shall be made electronic funds transfer (EFT), except as provided in paragraph (a)(2) of this clause. As used in this clause, the term EFT refers to the funds transfer and may also include the information transfer.

(2) In the event the Government is unable to release one or more payments by EFT, the Contractor agrees to either--

(i) Accept payment by check or some other mutually agreeable method of payment; or

(ii) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph (d) of this clause).

**(b) CONTRACTOR'S EFT INFORMATION.** The Government shall make payment to the Contractor using the EFT information contained in the Central Contractor Registration (CCR) database. In the event that the EFT information changes, the Contractor shall be responsible for providing the updated information to the CCR database.

**(c) MECHANISMS FOR EFT PAYMENT.** The Government shall make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.

**(d) SUSPENSION OF PAYMENT.** If the Contractor's EFT information in the CCR database is incorrect, then the Government need not make payment to the Contractor under this contract until correct EFT information is entered into the CCR database; and any invoice or contract financing request shall be deemed not to be a proper invoice for the purpose of prompt payment under this contract. The prompt payment terms of the contract regarding notice of an improper invoice and delays in accrual of interest penalties apply.

**(e) CONTRACTOR EFT ARRANGEMENTS.** The Contractor has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Contractor has not notified the Government of the payment receiving point applicable to this contract, the Government shall make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

**(f) LIABILITY FOR UNCOMPLETED OR ERRONEOUS TRANSFERS.**

(1) If an uncompleted or erroneous transfer occurs because the Government used the Contractor's EFT information incorrectly, the Government remains responsible for--

(i) Making a correct payment;

(ii) Paying any prompt payment penalty due; and

(iii) Recovering any erroneously directed funds.

(2) If an uncompleted or erroneous transfer occurs because the Contractor's EFT information was incorrect or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and--

(i) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Contractor is responsible for recovery of any erroneously direct funds; or

(ii) If the funds remain under the control of the payment office, the Government shall not make payment and the provisions of paragraph (d) of this clause shall apply.

**(g) EFT AND PROMPT PAYMENT.** A payment shall be deemed to have been made in a timely manner in accordance with the prompt payment terms of this contract if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.

**(h) EFT AND ASSIGNMENT OF CLAIMS.** If the Contractor assigns the proceeds of this contract as provided for in the assignment of claims terms of this contract, the Contractor shall require a condition of any such assignment that the assignee shall register in the CCR database and shall be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause shall apply to the assignee as if it were the Contractor. EFT information that shows the ultimate recipient of the transfer to be other than the Contractor, in the absence of a proper assignment of claims acceptable to the Government, is incorrect within the meaning of paragraph (d) of this clause.

**(i) LIABILITY FOR CHANGE OF EFT INFORMATION BY FINANCIAL AGENT.** The Government is not liable for errors resulting from changes in EFT information made by the Contractor's financial agent.

**(j) PAYMENT INFORMATION.** The payment or disbursing office shall forward to the Contractor available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Contractor to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph (a) of this clause, the Government shall mail the payment information to the remittance address contained in the CCR database. (FAR 52.232-33)

**G22 DESIGNATION OF THE DEFENSE FUEL REGION (DESC JUL 1997)**

(a) The Defense Energy Support Center Region to which reference is made herein is the--

**Defense Energy Support Center – Americas (DESC-AM)**  
**2320 LaBranch**  
**Room 2118**  
**Houston, TX 77004-1091**

**Tel:713-718-3770**

(b) The Defense Energy Support Center Office to which reference is made herein is the—

**Defense Energy Support Center – Houston (DESC-HU)**  
**2320 LaBranch**  
**Room 1005**  
**Houston, TX 77004-1091**

**Tel:713-718-3883, Ext. 401**

(c) The Commander of the Defense Fuel Region or his designee, appointed above, is the authorized representative of the Commander, Defense Energy Support Center.

(DESC 52.242-9F05)

**G148.05 SUBMISSION OF INVOICES FOR PAYMENT (SERVICES) (DESC MAR 2000)**

Monthly services invoices shall be mailed directly to the Accounting and Finance Office after self-certification. All other invoices are mailed to the Contract Administration Office (CAO) after Quality Representative (QR) certification. Specific procedures follow:

(a) **MONTHLY INVOICES.** Contractors shall present invoices for monthly services (original and 3 copies) directly to the following Accounting and Finance Office within one month following the performance of the respective services:

DEFENSE FINANCE AND ACCOUNTING SERVICE - COLUMBUS CENTER  
 STOCK FUND DIRECTORATE  
 FUELS ACCOUNTING AND PAYMENTS DIVISION  
 ATTN: DFAS-CO-TLSFA  
 P.O. BOX 182317  
 COLUMBUS, OH 43218-6250

Each invoice will be certified by an official of the company in the following manner:

"I certify that the services were performed, that the amounts reflected hereon are in conformance with the contract, and that the amounts are correct and proper for payment."

Signature \_\_\_\_\_  
 PRINTED NAME AND TITLE

**(b) ALL OTHER INVOICES.**

- (1) Contractors shall address invoices to the Accounting and Finance Office listed in (a) above.
- (2) Contractors shall certify that the invoice is true and correct and shall attach supporting documentation (e.g., subcontractor bills or invoices) for cost reimbursement invoices.
- (3) Contractors shall then present the invoice (original and 4 copies) to the cognizant QR for certification that the invoice is true and correct to the best of the QR's knowledge and that the supplies or services included on the invoice have been provided.
- (4) Last, Contractors shall submit the invoice to the applicable CAO address below for approval and for processing to the Accounting and Finance Office for payment. Upon mutual agreement between the Contractor and the QR, the QR may submit the invoice directly to the CAO after certification. The Administrative Contracting Officer (ACO) may authorize the Contractor to send

certified invoices directly to the Accounting and Finance Office, concurrent with a copy to the applicable CAO address below. Such ACO authorization must be specifically provided in the contract or modification thereto.

#### **CONUS Contract Locations**

ATTN DESC-FPA FPB ROOM 2945  
DEFENSE ENERGY SUPPORT CENTER  
8725 JOHN J KINGMAN RD SUITE 4950  
FORT BELVOIR VA 22060-6222

#### **OCONUS Contract Locations**

ATTN DESC-FPC ROOM 2945  
DEFENSE ENERGY SUPPORT CENTER  
8725 JOHN J KINGMAN RD SUITE 4950  
FORT BELVOIR VA 22060-6222

(c) **OVERTIME.** When the Contractor is authorized by the designated Defense Energy Region (DER) to perform services in excess of normal working hours, the Government will reimburse the Contractor as described in (1) and (2) below. Each invoice for overtime will specify the number of people working, their employment classification, number of hours worked, and the hourly rate of compensation. The written authorization from the DER must be attached to the invoice. (The authorization for overtime may be given initially by telephone, but later must be provided in writing by the DER to the Contractor.) Follow instructions given in (b) above for submission of overtime invoices.

(1) **GOCO (Government-Owned, Contractor-Operated).** The Government will reimburse actual overtime labor rate paid times actual overtime hours, plus social security taxes, insurance, and fringe benefits. No profit or G&A (general and administrative expenses) will be allowed. (Profit and G&A should be included in the monthly services charge based on the dollars estimated for the overtime line item.)

(2) **COCO (Contractor-Owned, Contractor-Operated).** The Government will reimburse at the rate specified in the Schedule clause.

(DESC 52.232-9FF5)

#### **G150.03 ELECTRONIC SUBMISSION OF INVOICES FOR PAYMENT (EDI) (DESC OCT 1998)**

##### **(a) SUBMISSION OF ELECTRONIC INVOICES.**

(1) **APPLICABILITY.** Electronic submission of invoices applies only to DoD items paid for with DLA/DESC funds by DFAS Columbus, OH.

(2) **REQUIREMENTS.** Prior to submission of electronic invoices via electronic data interchange (EDI) under this clause, the Contractor and DESC must have a signed Trading Partner Agreement (TPA) and Addendum 810, Invoices; and Addendum 824, Invoice Returns Notification.

##### **(b) INVOICING ADDRESS.**

(1) Electronic invoices for items paid for with DLA/DESC funds, as cited on the order form (DD Form 1155/ Standard Form 1449), shall be electronically submitted to DTDN/S39008 or GOVDP/S39008.

(2) **SUBMISSION OF INVOICES.** Invoices submitted electronically shall be in accordance with the provisions of the signed TPA and Addendum 810. Electronic invoices submitted shall be American National Standards Institute (ANSI) Accredited Standard Committee (ASC) X12 810 Transaction Sets. These 810 Transactions Sets shall follow the AVNET Convention as specified by the Petroleum Industry Data Exchange. The electronic invoice shall contain all fields required by the AVNET Convention, including the contract number, order number, shipment number, item number, and contract description of supplies, services, sizes, quantities, unit price, and extended total.

(c) **PAYMENT.** Unless otherwise expressly specified in the Schedule, payment of invoices will be made in U.S. currency.

(d) **CERTIFICATION OF RECEIPT.** See the SUBMISSION OF INVOICES FOR PAYMENT clause for receipt documentation.

(e) **INVOICING FOR DETENTION/DEMURRAGE COSTS.** Detention costs are allowable only on tank truck deliveries. Detention/demurrage costs are the sole responsibility of the activity incurring them. Invoices for detention or demurrage costs will be submitted by the Contractor directly to the activity receiving the product.

(DESC 52.232-9FH5)

### **SECTION H - SPECIAL CONTRACT REQUIREMENTS**

#### **H19 REPORTING AND CONTAINING OIL SPILLS (DOMESTIC STORAGE) (DESC NOV 1989)**

(a) Immediately upon the discovery of a petroleum spill, leak, or seepage involving Defense Energy Support Center (DESC) owned product, the Contractor shall notify, by telephone, (1) the Quality Representative, (2) the designated Defense Fuel Region, (3) the Administrative Contracting Officer (ACO), and (4) the Installation Fire Department. In addition, if the said spill, leak, or

seepage has reached, or if it might possibly reach, navigable waters, the Contractor shall immediately notify the Coast Guard by telephone (800) 424-8802, the appropriate Federal and State officials designated in State laws, and the ACO.

(b) Immediately upon discovery of a petroleum spill, leak, or seepage, the Contractor shall take all practicable measures available to contain and prevent further spreading of such spill, leak, or seepage. Measures taken by the Contractor will be in compliance with all local, State, and Federal laws and regulations.

(c) Any Contractor whose terminal stores product exclusively for DESC use shall prepare and submit an approved Spill Prevention Control and Countermeasure Plan, Oil Pollution Prevention Operations Manual, and Oil Spill Contingency Plan, as applicable. These documents shall be submitted to the ACO and the Defense Fuel Region specified in the DESIGNATION OF THE DEFENSE FUEL REGION clause of this solicitation as soon as practicable after contract award, but no later than 60 days after award notification. The Contingency Plan shall include, but not be limited to, (1) Contractor in-house capability and facilities, or (2) the preselection of a local agency, cooperative, or firm capable of and willing to provide cleanup services of this nature.

(d) The Contractor shall be responsible for maintaining current telephone numbers of the agencies cited herein and in the Contingency Plan upon commencement of the contract period.

## **H20        REPORTS OF GOVERNMENT PROPERTY (MAY 1994)**

(a) The Contractor shall provide an annual report--

(1) For all DoD property for which the Contractor is accountable under the contract;

(2) Prepared in accordance with the requirements of DD Form 1662, DoD Property in the Custody of Contractors, or approved substitute, including instructions on the reverse side of the form; and

(3) In duplicate, to the cognizant Government property administrator, no later than October 31.

(b) The Contractor is responsible for reporting all Government property accountable to this contract, including that at subcontractor and alternate locations. (DFARS 252.245-7001)

## **H51.03    INSURANCE REQUIREMENTS FOR CONTRACTORS AND SUBCONTRACTORS (DESC AUG 1998)**

(a) The General Liability Worker's Compensation and Automobile Liability Insurance to be procured and maintained by the Contractor and any subcontractors pursuant to the provisions of the INSURANCE - WORK ON A GOVERNMENT INSTALLATION clause shall provide at least the following minimum coverage:

### **GENERAL LIABILITY INSURANCE.**

Bodily Injury.....AT LEAST \$ 100,000 per person  
AT LEAST \$1,000,000 per accident

Property Damage.....AT LEAST \$1,000,000 per accident

Worker's Compensation.....AT LEAST \$100,000 except in states  
with exclusive monopolistic funds which do not permit the writing of workmen's compensation by  
private carriers (Nevada, North Dakota, Ohio, Oregon, Washington, West Virginia, and Wyoming).  
(Longshore and Harbor Workers' Compensation must also be provided when applicable.)

### **AUTOMOBILE LIABILITY INSURANCE.**

Bodily Injury.....AT LEAST \$200,000 per person  
AT LEAST \$500,000 per accident

Property Damage.....AT LEAST \$ 20,000 per accident

(b) Prior to the commencement of work hereunder, at the request of the Contracting Officer, the Contractor shall submit the required certificates of insurance to the Contracting Officer.

(DESC 52.228-9F05)

## **SECTION I - CONTRACT CLAUSES**

### **I1.07        REQUIRED CENTRAL CONTRACTOR REGISTRATION (MAR 1998)**

(a) **DEFINITIONS.** As used in this clause--

(1) **Central Contractor Registration (CCR) database** means the primary DoD repository for Contractor information required for the conduct of business with DoD.

(2) **Data Universal Numbering Systems (DUNS) number** means the 9-digit number assigned by Dun and Bradstreet Information Services to identify unique business entities.

(3) **Data Universal Numbering System + 4 (DUNS+4) number** means the DUNS number assigned by Dun and Bradstreet plus a 4-digit suffix that may be assigned at the discretion of the parent business concern for such purposes as identifying subunits or affiliates of the parent business concern.

(4) **Registered in the CCR database** means that all mandatory information, including the DUNS number or the DUNS+4 number, if applicable, and the corresponding Commercial and Government Entity (CAGE) code is in the CCR database; the DUNS number and the CAGE code have been validated; and all edits have been successfully completed.

(b) (1) By submission of an offer, the offeror acknowledges the requirement that a prospective awardee must be registered in the CCR database prior to award, during performance, and through final payment of any contract resulting from this solicitation, except for awards to foreign vendors for work to be performed outside the United States.

(2) The offeror shall provide its DUNS or, if applicable, its DUNS+4 number with its offer, which will be used by the Contracting Officer to verify that the offeror is registered in the CCR database.

(3) Lack of registration in the CCR database will make an offeror ineligible for award.

(4) DoD has established a goal of registering an applicant in the CCR database within 48 hours after receipt of a complete and accurate application via the Internet. However, registration of an applicant submitting an application through a method other than the Internet may take up to 30 days. Therefore, offerors that are not registered should consider applying for registration immediately upon receipt of this solicitation.

(c) The Contractor is responsible for the accuracy and completeness of the data within the CCR, and for any liability resulting from the Government's reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the Contractor is required to confirm on an annual basis that its information in the CCR database is accurate and complete.

(d) Offerors and contractors may obtain information on registration and annual confirmation requirements by calling 1-888-227-2423 or via the Internet at <http://www.ccr2000.com>.

(DFARS 252.204-7004)

## **II.20 CLAUSES INCORPORATED BY REFERENCE (FEB 1998)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these addresses:

**FAR/DFARS:** <http://farsite.hill.af.mil>  
**FAR/DFARS:** <http://www-far.npr.gov>  
**DLAD:** <http://www.procregs.hq.dla.mil/icps.htm>

(FAR 52.252-2)

## **II.16 RESPONSIBILITY FOR GOVERNMENT-OWNED PETROLEUM PRODUCTS (DESC APR 1997)**

(a) Government-owned petroleum products received, stored, and transported under this contract are governed by the provisions of this clause.

(b) Title to any Government-owned petroleum products in the possession of or under the custody of the Contractor by reason of this contract, which is hereinafter referred to in this clause as "such property," shall at all times remain in the Government, and such property shall be used only for the purposes set forth in this contract. The Government shall at all times have access to the premises wherein any such property is located.

(c) The Contractor shall protect and preserve such property in a manner consistent with sound industrial practice.

(d) At the end of the contract period the Government may abandon any Government-owned petroleum products in place, at which time all obligations of the Government regarding such abandoned petroleum products shall cease. The contract price shall be reduced to reflect the fair market value of any abandoned petroleum products. If an agreement as to compensation for abandoned petroleum products cannot be reached in a timely manner, the Contracting Officer will make a formal determination. The decision will be subject to resolution in accordance with paragraph (d), Disputes, of the CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS clause.

(e) The Contractor shall not be liable for loss of or damage to all such property while in the possession of or under the custody of the Contractor by reason of this contract, or for expenses incidental to such loss or damage, except that the Contractor shall be liable for any such loss or damage (including expenses incidental thereto)--

(1) Which results from negligence, or bad faith, or willful misconduct of the Contractor, its employees, or agents; or

(2) Which results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but the Contractor in such case shall be responsible only to the extent of such insurance or reimbursement.

(f) Except for those risks assumed by the Contractor pursuant to subparagraph (e)(1) of this clause, the Contractor represents and warrants that the prices stated in the Schedule do not include the cost of insurance covering risk or loss of or damage to such property while in the possession of or under the custody of the Contractor by reason of this contract, nor any provision for a reserve to cover such risk. In the event the Contractor is reimbursed or compensated for any loss or damage to such property, it shall reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any

such loss or damage and, upon the request of the Contracting Officer, shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(DESC 52.245-9F04)

#### **II16.01 LIABILITY FOR FUEL SPILLS (DESC OCT 1998)**

The Contractor shall take all measures required by law and good business practice to prevent fuel spills (including, but not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, or dumping into or onto any land or water). In the event that the Contractor's failure to take such measures results in a fuel spill, the Contractor shall be liable for the costs of spill containment, cleanup, and disposal. In addition, the Contractor shall reimburse the Government for any resulting fines or penalties. For purposes of this clause, the term **fuel** includes all petroleum and additive products.

(DESC 52.223-9F40)

#### **II19.04 PROPERTY CONTROL RECORDS (DOMESTIC) (DESC JUL 1997)**

##### **(a) INTRODUCTION.**

(1) The Contractor shall prepare all documentation in accordance with the information and instructions provided herein. Documents and procedures are subject to change. The Defense Energy Region (DER) shall notify the Contractor at least 45 days prior to implementation of any change. The Contractor shall maintain property control records of Government-owned product in its possession or in its custody as provided herein. Such property control records shall be subject to audit by the U.S. Government.

(2) The Contractor shall provide the required transaction data shown under paragraph (b)(3) below.

##### **(b) DEFENSE FUEL AUTOMATED MANAGEMENT SYSTEM (DFAMS) REPORTING REQUIREMENTS.**

(1) The Contractor shall prepare all necessary documentation for each transaction affecting the inventory of Government-owned products in its possession by virtue of this contract. The Contractor shall transmit one copy of each document prepared to the appropriate DER or Inventory Control Point (ICP) on a daily basis as prescribed by the DER. A transaction sequence number will be shown in ink in the upper right hand corner of the document. The DER or ICP may also telephone the Contractor on a daily basis (Monday through Friday, except holidays) to obtain information concerning transactions processed. The Contractor shall prepare and report each transaction in accordance with guidance provided in DoD 4140.25-M, Volume V, Appendices A, B, and C, as appropriate (copies of the publication will be provided by the Contracting Officer upon request). The cognizant DER or ICP shall advise the Contractor of any changes in processing and reporting procedures.

(2) The Contractor shall prepare and report weekly and monthly (see DoD 4140.25-M, Volume II, Chapter 10, Sections C and K) inventories of Government-owned product in its possession. By the second work day of each month, the Contractor shall furnish the DER by facsimile the physical inventory quantity for each product stored at the facility to be followed up by a hard copy document (DD Form 1348-8) by the fifth of the month.

(3) Under the DFAMS, all transactions are recorded by Document Identifier Code (DIC). The most commonly used codes are explained below. The DER shall provide instructions for any transaction that may be processed but not shown below.

<u>DIC</u>	<u>TRANSACTION</u>	<u>DOCUMENT</u>
<u><b>SHIPMENTS</b></u>		
P21	Shipments from a DESP to a Service/Agency	DD Form 250-1 DD Form 1348-7
P22	Shipments between DESPs	DD Form 250-1 DD Form 1348-7
<u><b>RECEIPTS</b></u>		
P30	Receipts from a DESC Procurement Contract	DD Form 250/250-1
P31	Service/Agency Receipts from a DESP	DD Form 250-1 DD Form 1348-7
P32	Receipts from a DESP (receipts associated with P22 transactions)	DD Form 250-1 DD Form 1348-7

P39	Receipts from an end-user (with or without credit)	DD Form 250-1 DD Form 1348-7
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### **INVENTORY**

P41	Physical Inventory	DD Form 1348-8
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P42	Inventory Adjustments	DD Form 1348-8
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- o Normal handling of variances (excessive)
- o Determinable losses such as spills, line breaks, nonrecoverable tank bottoms, major disasters, combat losses, etc.

P43	Condition/Identity Change	DD Form 1348-8
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- o Downgrade, regrade, or additive

(4) **The Contractor shall prepare inventory adjustment documents (DD Form 1348-8/P42 transactions) when inventory variances (discrepancies) exceed tolerance factors; determinable losses occur such as contaminated fuels, spills, pipeline ruptures, explosions or loss of product samples (five gallons or more) shipped to laboratories. An explanation shall be provided on each inventory adjustment document explaining gain or loss in excess of tolerance.** Each document shall be signed and dated by the Contractor's representative and the Quality Surveillance Representative (QSR). The QSR shall indicate whether he/she concurs or nonconcurs with the statement and shall provide an explanation for any nonoccurrence.

(5) At the end of each month (every six months for static storage), the cognizant DER or ICP shall forward one copy of the Inventory Reconciliation Document Register which lists all transactions processed during the period. The register will contain the following statement and shall be signed and dated by an authorized representative of the Contractor and the Government:

"I certify that the transactions recorded in this document register are complete and accurate. They represent all actions affecting this account during the month (past six months for static storage) in the sequence shown. Each transaction, except a final automatic reconciliation adjustment, is supported by a valid auditable source document."

(6) Within five days after receipt of the Inventory Reconciliation Document Register, the Contractor shall advise the cognizant DER or ICP in writing of any discrepancy and provide a detailed explanation of any gain or loss (P42) transaction in excess of tolerance. Further, the Contractor shall attach all supporting documents to the inventory document register and retain the entire package on file for future audits.

**(c) OTHER REQUIREMENTS.**

(1) **STORAGE TANK OUT OF SERVICE.** Prior to removing a storage tank from service, the Contractor shall immediately notify the Property Administrator by telephone, with follow-up confirmation in writing, providing the date and time the tank is scheduled to be removed from service. In addition, the Contractor shall provide the Property Administrator a written estimate of unrecoverable tank bottoms. The estimate will be reviewed and approved by the QSR prior to submission.

(2) **UNRECOVERABLE TANK BOTTOMS.** Prior to the end of the contract period, the Contractor shall provide the Property Administrator a written estimate of unrecoverable tank bottoms. The estimate will be reviewed and approved by the QSR prior to submission.

(3) **REPORTING FUEL ADDITIVES AND SLOP FUEL.** Government-owned fuel additives and slop fuel stock at the DFSP will be treated as separate and distinct items, and all transactions shall be documented as outlined herein. These products will be recorded in gallons and reported under the approved National Stock Number (NSN).

(a) An auditable identity change document (DD Form 1348-8) shall be used to account for bulk FSII blended with bulk fuel and fuel downgraded to slop. Fractions of a gallon cannot be used (e.g., if 1.5 gallons of FSII were injected, report 1 gallon and record the .5 until a whole gallon is used).

(b) Packaged additives such as COR, ASA, AS1, AD1, and CO1 shall be accounted for locally using a general log or ledger. As the additive is injected, record the amount in the log to track usage and inventory. No other documentation is required.

(4) **GOVERNMENT BILLS OF LADING (GBLs) - CONUS ONLY.** Storage Contractors shall prepare GBLs in accordance with the data and instructions provided in DFSC 4500.4, Transportation and Traffic Management -Preparation of

Government Bills of Lading for Shipment of Defense Fuel Supply Center Fuels (copies of the publication will be provided by the Contracting Officer upon request). The cognizant DER shall advise Contractors of any changes in processing and reporting procedures. Contractors shall contact the cognizant DER when additional guidance is required.

(5) **STATEMENT OF AUTHORIZED SIGNATURES.** The Contractor shall furnish the Property Administrator a statement containing the names and handwritten signatures of persons authorized by the Contractor to receive and accept Government-owned product or property.

(6) **RETENTION OF SUPPORTING DOCUMENTS.** The Contractor shall retain one copy of the ordering activities' requisitions for a period of two years or until the expiration of this contract, whichever is sooner.

(7) **CHANGE IN DFSP OPERATOR.** Transfer of residual inventory from expired contracts will be made regardless of whether there is a change in Contractors. The transfer of DESP product will be accomplished as follows:

(i) The outgoing Contractor, the new Contractor, and the QSR will jointly gauge all tanks and will calculate the physical inventory.

(ii) Upon completion of the inventory, a DD Form 1348-8 will be completed for each grade of fuel.

(iii) The following certification will be typed on each DD Form 1348-8 and signed by the appropriate individuals:

"The inventory recorded on this DD Form 1348-8 has been transferred from contract  
(old number) to contract (new number) on (date) .

Signature (Outgoing Contractor) / (New Contractor) "

(iv) The Contractor shall telephone this information into the DER and mail one copy of each DD Form 1348-8 to the DER.

(v) The DER or ICP shall mail three copies of the Inventory Reconciliation Document Register covering the transfer month to the outgoing Contractor. The outgoing Contractor shall apply appropriate certification to the Inventory Reconciliation Document Register and shall retain one copy, provide one copy to the new Contractor, and return the third copy to the DER.

(8) **RETENTION OF ACCOUNTABLE RECORDS AND DOCUMENTS.** All records and documents identified above are DESC-accountable records and must be retained for two years after expiration of the contract.

(DESC 52.245-9F30)

#### **I180.02 ENVIRONMENTAL PROTECTION (STORAGE) (DESC MAY 1987)**

The Contractor agrees to conform to all laws and regulations relating to the protection of the environment in effect on the date the contract is awarded, which are applicable to its operation in the performance of this contract. The Contractor further agrees to conform to any laws or regulations enacted after contract award that are applicable to its operation in the performance of this contract. In the event that conformance with any such new laws or regulations causes an increase or decrease in the operating cost, the Contractor and the Government will negotiate an equitable adjustment in the contract price. Failure to agree on an equitable adjustment in the contract price shall be a dispute concerning a question of fact within the meaning of the DISPUTES clause of this contract; however, nothing in this clause shall excuse the Contractor from implementing any such laws or regulations. The Contractor shall proceed with performance of this contract, unless so advised in writing by the Contracting Officer.

(DESC 52.223-9F02)

#### **I209.01 OPTION TO RENEW (SERVICES) (DESC APR 1997)**

The Government shall have the option to renew this contract upon the same terms and conditions for three (3) successive periods of five (5) years each. The Government shall issue written notice of its exercise of this option to renew at least 30 days prior to the expiration date of this contract or any renewal thereof.

(DESC 52.217-9F09)

#### **I209.03.100 EXTENSION PROVISION (STORAGE) (DESC JUNE 2000)**

The Government shall have the right to extend this contract upon the same terms and conditions on a month-by-month basis for a total of no more than six months at the end of any five (5) year period except the last one, if the Government will not be exercising an option. Notice of extensions may be furnished any time prior to the expiration of this contract or any extensions thereof. The foregoing extensions may be exercised by the Government only if (a) a decision is made by the Government that the additional time is required to deplete the Government-owned stocks stored in the facility, (b) a contract for follow-on services is terminated for default by the Government prior to commencement of services, or (c) where the extension is required to sustain performance because of difficulties encountered in award of the follow-on contract.

(DESC 52.217-9F05)



**CLAUSES INCORPORATED BY REFERENCE:**

I1	DEFINITIONS (OCT 1995) - FAR 52.202-1
I1.02	COMPUTER GENERATED FORMS (JAN 1991) – FAR 52.253-1
I1.06	CERTIFICATION OF REQUESTS FOR EQUITABLE ADJUSTMENT (JUL 1997) - DFARS 252.243-7002
I1.19	AUTHORIZED DEVIATIONS IN CLAUSES (APR 1984) - FAR 52.252-6
I1.22	PRICE OR FEE ADJUSTMENT FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997) - FAR 52.203-10
I1.22-1	CANCELLATION, RESCISSION, AND RECOVERY OF FUNDS FOR ILLEGAL OR IMPROPER ACTIVITY (JAN 1997) - FAR 52.203-8
I1.24	LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (JAN 1990) - FAR 52.203-12
I2	CONTROL OF GOVERNMENT PERSONNEL WORK PRODUCT (APR 1992) - DFARS 252.204-7003
I2.01	CHANGES - FIXED-PRICE (ALT I) (APR 1984) - FAR 52.243-1/Alt I
I3	EXTRAS (APR 1984) - FAR 52.232-11
I3.01	PROMPT PAYMENT (MAR 1994) - FAR 52.232-25
I4	DISCOUNTS FOR PROMPT PAYMENT (MAY 1997) - FAR 52.232-8
I7	PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (JUN 1996) - FAR 52.204-4
I8.02	ASSIGNMENT OF CLAIMS (ALT I) (APR 1984) - FAR 52.232-23/Alt I
I11.03	DEFAULT (FIXED-PRICE SUPPLY AND SERVICE) (APR 1984) - FAR 52.249-8
I11.04	BANKRUPTCY (JUL 1995) - FAR 52.242-13
I12.01	DISPUTES (OCT 1995) - FAR 52.233-1
I12.03	PROTEST AFTER AWARD (AUG 1996) - FAR 52.233-3
I16.01	CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION(JUL 1995) - FAR 52.222-4
I18.02	PROHIBITION OF SEGREGATED FACILITIES (FEB 1999) - FAR 52.222-21
I18.03	EQUAL OPPORTUNITY (FEB 1999) - FAR 52.222-26
I18.06	DISPLAY OF DOD HOTLINE POSTER (DEC 1991) - DFARS 252.203-7002
I20	COVENANT AGAINST CONTINGENT FEES (APR 1984) - FAR 52.203-5
I24	NOTICE TO THE GOVERNMENT OF LABOR DISPUTES (FEB 1997) - FAR 52.222-1
I25	AUTHORIZATION AND CONSENT (JUL 1995) - FAR 52.227-1
I27	GRATUITIES (APR 1984) - FAR 52.203-3
I28.16	FEDERAL, STATE, AND LOCAL TAXES (JAN 1991) - FAR 52.229-3
I31.06	LIMITATION ON WITHHOLDING OF PAYMENTS (APR 1984) - FAR 52.232-9
I32	CANCELLATION UNDER MULTIYEAR CONTRACTS (OCT 1997) - FAR 52.217-2
I33	INTEREST (JUN 1996) - FAR 52.232-17
I36.03	TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (SERVICES) (SHORT FORM) (APR 1984) - FAR 52.249-4
I43.01	LIMITATION OF LIABILITY - SERVICES (FEB 1997) - FAR 52.246-25
I43.02	LIMITATION OF GOVERNMENT'S OBLIGATION (AUG 1993) - DFARS 252.232-7007
I95	AUDIT AND RECORDS -- NEGOTIATION (AUG 1996) - FAR 52.215-2
I98	PROTECTING THE GOVERNMENT'S INTERESTS WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT (JUL 1995) - FAR 52.209-6
I102.03	DRUG-FREE WORK FORCE (SEP 1988) - DFARS 252.223-7004
I102.04	DRUG-FREE WORKPLACE (JAN 1997) - FAR 52.223-6
I114	GOVERNMENT PROPERTY (FIXED-PRICE CONTRACTS) (DEC 1989) - FAR 52.245-2
I117	PROTECTION OF GOVERNMENT BUILDINGS, EQUIPMENT, AND VEGETATION (APR 1984) - FAR 52.237-2
I124	LIABILITY FOR THE FACILITIES (JAN 1997) (DEVIATION) - FAR 52.245-8
I131	INSURANCE - WORK ON A GOVERNMENT INSTALLATION (JAN 1997) - FAR 52.228-5
I132.02	ORDER OF PRECEDENCE - UNIFORM CONTRACT FORMAT (OCT 1997) - FAR 52.215-8
I168	AFFIRMATIVE ACTION FOR DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (APR 1998) - FAR 52.222-35
I169	EMPLOYMENT REPORTS ON DISABLED VETERANS AND VETERANS OF THE VIETNAM ERA (JAN 1999) - FAR 52.222-37
I170	UTILIZATION OF SMALL BUSINESS CONCERNS (JAN 1999) - FAR 52.219-8
I171	SMALL BUSINESS SUBCONTRACTING PLAN (JAN 1999) - FAR 52.219-9

I171.01-1	UTILIZATION OF INDIAN ORGANIZATIONS AND INDIAN-OWNED ECONOMIC ENTERPRISES (FEB 2000) - FAR 52.226-1
I171.01-3	SOCIOECONOMIC PROPOSAL (FEB 1999) - DLAD 52.215-9002
I171.03	SMALL, SMALL DISADVANTAGED, AND WOMEN-OWNED SMALL BUSINESS SUBCONTRACTING PLAN (DoD CONTRACTS) (APR 1996) - DFARS 252.219-7003
I171.07	LIQUIDATED DAMAGES - SUBCONTRACTING PLAN (JAN 1999) - FAR 52.219-16
I176	COST ACCOUNTING STANDARDS (APR 1998) - FAR 52.230-2
I176.03	DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES (APR 1998) - FAR 52.230-3
I176.05	ADMINISTRATION OF COST ACCOUNTING STANDARDS (NOV 1999) - FAR 52.230-6
I178	WASTE REDUCTION PROGRAM (MAY 1995) - FAR 52.223-10
I181	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES (JUN 1998) - FAR 52.222-36
I185.01	SECONDARY ARAB BOYCOTT OF ISRAEL (JUN 1992) - DFARS 252.225-7031
I190.03	PROHIBITION ON STORAGE AND DISPOSAL OF TOXIC AND HAZARDOUS MATERIALS (APR 1993) – DFARS 252.223-7006
I190.05	POLLUTION PREVENTION AND RIGHT-TO-KNOW INFORMATION (APR 1998) - FAR 52.223-5
I198	PRICING OF CONTRACT MODIFICATIONS (DEC 1991) - DFARS 252.243-7001
I225	PAYMENTS (APR 1984) - FAR 52.232-1
I229	RESTRICTIONS ON SUBCONTRACTOR SALES TO THE GOVERNMENT (JUL 1995) - FAR 52.203-6
I238.02	NOTICE OF PRICE EVALUATION PREFERENCE FOR HUBZONE SMALL BUSINESS CONCERNS (JAN 1999) - FAR 52.219-4
I251	ANTI-KICKBACK PROCEDURES (JUL 1995) - FAR 52.203-7
I255	ACQUISITION FROM SUBCONTRACTORS SUBJECT TO ON-SITE INSPECTION UNDER THE INTERMEDIATE-RANGE NUCLEAR FORCES (INF) TREATY (NOV 1995) - DFARS 252.209-7000
I285	SUBCONTRACTING WITH FIRMS THAT ARE OWNED OR CONTROLLED BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998) - DFARS 252.209-7004

#### SECTION J – LIST OF ATTACHMENTS

<b><u>FORM</u></b>	<b><u>TITLE</u></b>	<b><u>LOCATION</u></b>
<b>DD1707</b>	<b>Information to Offerors or Quoters</b>	<b>Cover Page</b>
<b>SF33</b>	<b>Solicitation, Offer, and Award</b>	<b>Page 1</b>
	<b>Offeror Submission Package</b>	<b>Attachment 1</b>
<b>DESC-P Form 1</b>	<b>Small Business Subcontracting Form</b>	<b>Attachment 2</b>
	<b>Draft Lease</b>	<b>Attachment 3</b>

#### SECTION K - REPRESENTATION, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR QUOTERS

<b>K1.01-5</b>	<b>PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)</b> See the Offeror Submission Package – Attachment 1
<b>K1.01-6</b>	<b>AFFIRMATIVE ACTION COMPLIANCE (APR 1984)</b> See the Offeror Submission Package – Attachment 1
<b>K1.06</b>	<b>DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (JUN 1999)</b> See the Offeror Submission Package – Attachment 1
<b>K7</b>	<b>COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (APR 1998)</b> See the Offeror Submission Package – Attachment 1
<b>K15.03</b>	<b>CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)</b> See the Offeror Submission Package – Attachment 1

**K33.01 AUTHORIZED NEGOTIATORS (DESC JAN 1998)**

See the Offeror Submission Package – Attachment 1

**K41 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)**

See the Offeror Submission Package – Attachment 1

**K45 FACSIMILE INVOICING (DESC SEP 1988)**

See the Offeror Submission Package – Attachment 1

**K85 DISCLOSURE OF OWNERSHIP OR CONTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY (MAR 1998)**

(a) **DEFINITIONS.** As used in this provision--

(1) **Government of a terrorist country** includes the state and the government of a terrorist country, as well as any political subdivision, agency, or instrumentality thereof.

(2) **Terrorist country** means a country determined by the Secretary of State, under Section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(i)(A)), to be a country the government of which has repeatedly provided support for acts of international terrorism. As of the date of this provision, terrorist countries include Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria.

(3) **Significant interest**, as used in this provision means--

(i) Ownership of or beneficial interest in 5 percent or more of the firm's or subsidiary's securities. Beneficial interest includes holding 5 percent or more of any class of the firm's securities in "nominee shares," "street names," or some other method of holding securities that does not disclose the beneficial owner;

(ii) Holding a management position in the firm, such as director or officer;

(iii) Ability to control or influence the election, appointment, or tenure of directors or officers in the firm;

(iv) Ownership of 10 percent or more of the assets of a firm such as equipment, buildings, real estate, or other tangible assets of the firm; or

(v) Holding 50 percent or more of the indebtedness of a firm.

(b) **PROHIBITION ON AWARD.** In accordance with 10 U.S.C. 2327, no contract may be awarded to a firm or subsidiary of a firm if the government of a terrorist country has a significant interest in the firm or subsidiary or, in the case of a subsidiary, the firm that owns the subsidiary, unless a waiver is granted by the Secretary of Defense.

(c) **DISCLOSURE.**

If the government of a terrorist country has a significant interest in the offeror or a subsidiary of the offeror, the offeror shall disclose such interest in an attachment to its offer. If the offeror is a subsidiary, it shall also disclose any significant interest each government has in any firm that owns or controls the subsidiary. The disclosure shall include--

(1) Identification of each government holding a significant interest; and

(2) A description of the significant interest held by each Government.

(DFARS 252.209-7001)

**K88 TAXPAYER IDENTIFICATION (OCT 1998)**

See the Offeror Submission Package – Attachment 1

**K94 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (MAR 1996)**

See the Offeror Submission Package – Attachment 1

**K96 CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS (APR 1991)**

(a) The definitions and prohibitions contained in the clause, at FAR 52.203-12, LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS, included in this solicitation, are hereby incorporated by reference in paragraph (b) of this certification.

(b) The offeror, by signing its offer, hereby certifies to the best of his or her knowledge and belief that on or after December 23, 1989, --

(1) No Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with the awarding of any Federal contract, the making of any Federal grant, the making of

any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

(2) If any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on his or her behalf in connection with this solicitation, the offeror shall complete and submit, with its offer, OMB standard form LLL, Disclosure of Lobbying Activities, to the Contracting Officer; and

(3) He or she will include the language of this certification in all subcontract awards at any tier and require that all recipients of subcontract awards in excess of \$100,000 shall certify and disclose accordingly.

(c) Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by section 1352, title 31, United States Code. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure form to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure. (FAR 52.203-11)

## SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS

### L1.02 PROPOSAL ACCEPTANCE PERIOD (DESC NOV 1991)

(a) **Acceptance period**, as used in this provision, means the number of calendar days available to the Government for awarding a contract from the date specified in this solicitation for receipt of proposals.

(b) This provision supersedes any language pertaining to the acceptance period that may appear elsewhere in this solicitation.

(c) The Government requires a minimum acceptance period of 120 calendar days.

(d) If the offeror specifies an acceptance period which is less than that required by the Government, such offer may be rejected.

(e) The offeror agrees to execute all that it has undertaken to do, in compliance with its offer, if such offer is acceptable to the Government and is accepted within the acceptance period stated in paragraph (c) above or within any extension thereof which has been agreed to by the offeror.

### L2.01 INSTRUCTIONS TO OFFERORS (RFP) (DESC OCT 1981)

Offerors are expected to examine all sections of the solicitation and the Information to Offerors form. Failure to do so will be at offeror's risk. Each offeror shall furnish the information required by the solicitation. Offers and modifications thereto shall be signed and dated. The name and title of the person authorized to sign the offer is to be printed or typed on the offer. The offer shall be enclosed in sealed envelopes and addressed to the office specified in the solicitation. Erasures or other changes must be initialed by the person signing the offer. The offeror shall show the hour and date specified in the solicitation for receipt, the solicitation number, and the name and address of the offeror on the face of the envelope.

(DESC 52.215-9F23)

### L2.05-8 INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITION (ALT I) (FEB 2000/OCT 1997)

(a) **DEFINITIONS.** As used in this provision--

(1) **Discussions** are negotiations that occur after establishment of the competitive range that may, at the Contracting Officer's discretion, result in the offeror being allowed to revise its proposal.

(2) **In writing** or **written** means any worded or numbered expression that can be read, reproduced, and later communicated, and includes electronically transmitted and stored information.

(3) **Proposal modification** is a change made to a proposal before the solicitation's closing date and time, or made in response to an amendment, or made to correct a mistake at any time before award. Proposal revision is a change to a proposal made after the solicitation closing date, at the request of or as allowed by a Contracting Officer as the result of negotiations.

(4) **Time**, if stated as a number of days, is calculated using calendar days, unless otherwise specified, and will include Saturday, Sundays, and legal holidays. However, if the last day falls on a Saturday, Sunday, or legal holiday, then the period shall include the next working day.

(b) **AMENDMENTS TO SOLICITATIONS.** If this solicitation is amended, all terms and conditions that are not amended remain unchanged. Offerors shall acknowledge receipt of any amendment to this solicitation by the date and time specified in the amendment(s).

(c) **SUBMISSION, MODIFICATION, REVISION, AND WITHDRAWAL OF PROPOSALS.**

(1) Unless other methods (e.g., electronic commerce or facsimile) are permitted in the solicitation, proposals, and modifications to proposals shall be submitted in paper media in sealed envelopes or packages—

- (i) Addressed to the office specified in the solicitation; and
- (ii) Showing the time and date specified for receipt, the solicitation number, and the name and address of the offeror.

Offerors using commercial carriers should ensure that the proposal is marked on the outermost wrapper with the information in paragraphs (c)(1)(i) and (c)(1)(ii) of this provision.

(2) The proposal must show--

- (i) The solicitation number;
- (ii) The name, address, and telephone and facsimile numbers of the offeror (and electronic address if available);
- (iii) A statement specifying the extent of agreement with all terms, conditions, and provisions included in the solicitation and agreement to furnish any or all items upon which prices are offered at the prices set opposite each item;
- (iv) Names, titles, and telephone and facsimile numbers (and electronic address if available) of persons authorized to negotiate on the offeror's behalf with the Government in connection with this solicitation; and
- (v) Name, title, and signature of person authorized to sign the proposal. Proposals signed by an agent shall be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office.

(3) **Submission, modification, revision, and withdrawal of proposals.**

(i) Offerors are responsible for submitting proposals, and any modifications or revisions, so as to reach the Government office designated in the solicitation by the time specified in the solicitation. If no time is specified in the solicitation, the time for receipt is 4:30 p.m., local time, for the designated Government office on the date that proposal or revision is due.

(ii) (A) Any proposal, modification, or revision received at the Government office designated in the solicitation after the exact time specified for receipt of offers is "**late**" and will not be considered unless it is received before award is made, the Contracting Officer determines that accepting the late offer would not unduly delay the acquisition; and--

(a) If it was transmitted through an electronic commerce method authorized by the solicitation, it was received at the initial point of entry to the Government infrastructure not later than 5:00 p.m. one working day prior to the date specified for receipt of proposals; or

(b) There is acceptable evidence to establish that it was received at the Government installation designated for receipt of offers and was under the Government's control prior to the time set for receipt of offers, or

It was sent by registered or certified mail not later than the fifth calendar day before the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20<sup>th</sup> of the month must have been mailed by the 15<sup>th</sup>);

(c) It is the only proposal received.

It was sent by mail (or telegram or facsimile, if authorized) or hand-carried (including delivery by a commercial carrier) if it is determined by the Government that the late receipt was due primarily to Government mishandling after receipt at the Government installation;

(B) However, a late modification of an otherwise successful proposal that makes its terms more favorable to

(iii) Acceptable evidence to establish the time of receipt at the Government installation includes the time/date stamp of that installation on the proposal wrapper, other documentary evidence of receipt maintained by the installation, or oral testimony or statements of Government personnel.

(iv) If an emergency or unanticipated event interrupts normal Government processes so that proposals cannot be received at the office designated for receipt of proposals by the exact time specified in the solicitation, and urgent Government requirements preclude amendment of the solicitation, the time specified for receipt of proposals will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal Government processes resume.

(v) Proposals may be withdrawn by written notice received at any time before award. Oral proposal in response to oral solicitations may be withdrawn orally. If the solicitation authorizes facsimile proposals, proposals may be withdrawn via facsimile received at any time before award, subject to the conditions specified in the FACSIMILE PROPOSALS provision. Proposals may be withdrawn in person by an offeror or an authorized representative, if the identity of the person requesting withdrawal is established and the person signs a receipt for the proposal before award.

(4) Unless otherwise specified in the solicitation, the offeror may propose to provide any item or combination of items.

(5) Offerors shall submit proposals in response to this solicitation in English, unless otherwise permitted by the solicitation, and in U.S. dollars, unless the provision at FAR 52.225-17, EVALUATION OF FOREIGN CURRENCY OFFERS, is included in the solicitation.

(6) Offerors may submit modifications to their proposals at any time before the solicitation closing date and time, and may submit modifications in response to an amendment, or to correct a mistake at any time before award.

(7) Offerors may submit revised proposals only if requested or allowed by the Contracting Officer.

(8) Proposals may be withdrawn at any time before award. Withdrawals are effective upon receipt of notice by the Contracting Officer.

(d) **OFFER EXPIRATION DATE.** Proposals in response to this solicitation will be valid for the number of days specified on the solicitation cover sheet.

(e) **RESTRICTION ON DISCLOSURE AND USE OF DATA.** Offerors that include in their proposals data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes, shall--

(1) Mark the title page with the following legend: THIS PROPOSAL INCLUDES DATA THAT SHALL NOT BE DISCLOSED OUTSIDE THE GOVERNMENT AND SHALL NOT BE DUPLICATED, USED, OR DISCLOSED -- IN WHOLE OR IN PART -- FOR ANY PURPOSE OTHER THAN TO EVALUATE THIS PROPOSAL. IF, HOWEVER, A CONTRACT IS AWARDED TO THIS OFFEROR AS A RESULT OF -- OR IN CONNECTION WITH -- THE SUBMISSION OF THIS DATA, THE GOVERNMENT SHALL HAVE THE RIGHT TO DUPLICATE, USE, OR DISCLOSE THE DATA TO THE EXTENT PROVIDED IN THE RESULTING CONTRACT. THIS RESTRICTION DOES NOT LIMIT THE GOVERNMENT'S RIGHT TO USE INFORMATION CONTAINED IN THIS DATA IF IT IS OBTAINED FROM ANOTHER SOURCE WITHOUT RESTRICTION. THE DATA SUBJECT TO THIS RESTRICTION ARE CONTAINED IN SHEETS (INSERT NUMBERS OR OTHER IDENTIFICATION OF SHEETS); and

(2) Mark each sheet of data it wishes to restrict with the following legend: USE OR DISCLOSURE OF DATA CONTAINED ON THIS SHEET IS SUBJECT TO THE RESTRICTION ON THE TITLE PAGE OF THIS PROPOSAL.

**(f) CONTRACT AWARD.**

(1) The Government intends to award a contract or contracts resulting from this solicitation to the responsible offeror(s) whose proposal(s) represents the best value after evaluation in accordance with the factors and subfactors in the solicitation.

(2) The Government may reject any or all proposals if such action is in the Government's interest.

(3) The Government may waive informalities and minor irregularities in proposals received.

(4) The Government intends to evaluate proposals and award a contract after conducting discussions with offerors whose proposals have been determined to be within the competitive range. If the Contracting Officer determines that the number of proposals that would otherwise be in the competitive range exceeds the number at which an efficient competition can be conducted, the Contracting Officer may limit the number of proposals in the competitive range to the greatest number that will permit an efficient competition among the most highly rated proposals. Therefore, the offeror's initial proposal should contain the offeror's best terms from a price and technical standpoint.

(5) The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit cost or prices offered, unless the offeror specifies otherwise in the proposal.

(6) The Government reserves the right to make multiple awards if, after considering the additional administrative costs, it is in the Government's best interest to do so.

(7) Exchanges with offerors after receipt of a proposal do not constitute a rejection or counteroffer by the Government.

(8) The Government may determine that a proposal is unacceptable if the prices proposed are materially unbalanced between line items or subline items. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more contract line items is significantly overstated or understated as indicated by the application of cost or price analysis techniques. A proposal may be rejected if the Contracting Officer determines that the lack of balance poses an unacceptable risk to the Government.

(9) If a cost realism analysis is performed, cost realism may be considered by the source selection authority in evaluating performance or schedule risk.

(10) A written award or acceptance of proposal mailed or otherwise furnished to the successful offeror within the time specified in the proposal shall result in a binding contract without further action by either party.

(11) The Government may disclose the following information in postaward debriefings to other offerors:

(i) The overall evaluated cost or price and technical rating of the successful offeror;

(ii) The overall ranking of all offerors, when any ranking was developed by the agency during source selection;

(iii) A summary of the rationale for award; and

(iv) For acquisitions of commercial items, the make and model of the item to be delivered by the successful offeror.

(FAR 52.215-1/Alt I)

**L2.21 AUTHORIZED DEVIATIONS IN PROVISIONS (APR 1984)**

(a) The use in this solicitation of any Federal Acquisition Regulation (48 CFR Chapter 1) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the date of the provision.

(b) The use in this solicitation of any DOD FAR Supplement Regulation (48 CFR Chapter 2) provision with an authorized deviation is indicated by the addition of "(DEVIATION)" after the name of the regulation.

(FAR 52.252-5)

**L2.28 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)**

(a) This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotations or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provisions by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

FAR/DFARS: <http://farsite.hill.af.mil/>  
 FAR/DFARS: <http://www.far.npr.gov/>  
 DLAD: <http://www.procregs.hq.dla.mil/>

(FAR 52.252-1)

## **L2.31.100 PROPOSAL FORMAT AND CONTENT (DESC JUN 2000)**

Proposals will be submitted in two sections and clearly labeled **Price Proposal** and **Technical Proposal**. Offers for less than the entire twenty (20) year contract period will not be considered.

### **(a) PRICE PROPOSAL.**

(1) The SERVICES TO BE FURNISHED clause must be completed, with a detailed cost breakdown included. All fill-ins in the Offeror Submission Package must be completed and submitted with the offer. **The offeror shall submit the original and one copy of the price proposal.**

(2) If any exceptions are to be taken to the terms and conditions, indicate specific paragraphs and submit as part of the price proposal. Only exceptions detailed here will be considered exceptions to the requirements of the solicitation.

### **(b) TECHNICAL PROPOSAL.**

(1) **The offeror shall submit the original and 3 copies of the technical proposal.** It will be evaluated strictly on technical merit, and should describe and justify the offeror's technical approach to the requirements of the work to be performed. It should be specific and complete in every detail, with concise, straight forward descriptions of the offeror's capability to perform this work. Offerors are required to identify any technical, schedule, performance, or cost risks associated with their proposals, and describe the approaches to be used in resolving or avoiding the identified risks. Proposals that are unrealistic in terms of technical commitments, or unrealistically low in price, will be considered indicative of a lack of understanding of the solicitation requirements. The technical proposal cannot exceed 25 pages.

(2) **SPECIFIC INSTRUCTIONS.** The proposals should address the following subjects, which will be evaluated to determine technical scores:

#### **(i) OPERATIONAL CAPABILITY.**

The offeror must provide a description of the services to be provided in sufficient detail to allow the Government to evaluate the ability of the contractor to meet the Government's requirements. This description should include drawings and designs of any facilities, along with a narrative describing the fuel dispensing capability, the size and type of storage tanks, traffic control, the proposed surface(s), fuel spill containment and other environmental issues, capability of the automated system, fuel automated system (FAS) interface, expansion capability, built in redundancy, and any other information necessary for a complete evaluation of the facilities. The offeror should also provide a plan describing his long-term ability to provide these services over the entire length of the contract.

**NOTE: This plan shall be no more than 10 pages and will be considered separate from the 25 page limit for the technical proposal.**

#### **(ii) PAST PERFORMANCE.**

(a) The offeror shall list all contracts and subcontracts (completed or in progress) for the last three years from DESC as well as others (completed or in progress) for other Government agencies or the private sector that are related to the proposed contract. Failure to submit a complete list may reflect adversely on the Contractor. The Government has the option to consider information from these sources, and any others that may be available, that it deems necessary in order to make an accurate assessment of the Contractor's past performance. The offeror should include the following information:

- (1) Name of contracting activity;
- (2) Contract number;
- (3) Contract type and dollar value;
- (4) Brief description of the work (if the offeror is a large business, include a description of any subcontracting); and

(5) Contracting Officer, Contracting Officer's Representative, Administrative Contracting Officer, and program manager (all that are applicable) with telephone numbers. These contracts may include efforts undertaken on behalf of (1) private industry, (2) quasi-government organizations, or (3) Federal agencies, including those performed for non-DoD activities.

(b) The offeror should provide information on any significant problems encountered and corrective actions taken.

#### **(iii) SUBCONTRACTING**

The offeror should describe the extent of any planned subcontracting with small, small disadvantaged, and small women-owned businesses.





**L5 SERVICE OF PROTEST (AUG 1996)**

(a) **Protests**, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from--

ATTN: **DESC-PCA**  
 DEFENCE ENERGY SUPPORT CENTER  
 8725 JOHN J. KINGMAN ROAD SUITE 4950  
 FORT BELVOIR, VA 22060-6222

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with GAO.  
 (FAR 52.233-2)

**L5.01-1 AGENCY PROTESTS (DEC 1999) - DLAD**

Companies protesting this procurement may file a protest (1) with the Contracting Officer, (2) with the General Accounting Office, or (3) pursuant to Executive Order No. 12979, with the Agency for a decision by the Activity's Chief of the Contracting Office. Protests filed with the Agency should clearly state that they are an "Agency Level Protest under Executive Order No. 12979." (**NOTE:** DLA procedures for Agency Level Protests filed under Executive Order No. 12979 for a higher level decision on the initial protest than would occur with a protest to the Contracting Officer; this process is not an appellate review of a Contracting Officer's decision on a protest previously filed with the Contracting Officer.) Absent a clear indication of the intent to file an agency level protest, protests will be presumed to be protests to the Contracting Officer.

(DLAD 52.233-9000)

**L11 POSTPONEMENT OF OPENING/CLOSING OF OFFERS (OCT 1982) DLAD**

If the opening/closing of offers is postponed because emergency or unanticipated events (such as, but not limited to, flood, fire, accident, weather condition, or strikes) result in closing the designated site for opening/closing of offers, so that the conduct of openings/closings as scheduled is impracticable, offers or modifications or withdrawal of offers received prior to the time of actual opening/closing will be considered as timely. Offers or modifications or withdrawals of offers received after the time of actual opening/closing of offers, when opening/closing of offers was postponed as provided above, will not be considered except as provided in FAR 52.214-7 or 52.215-10, as applicable.

(DLAD 52.214-9000)

**L17 AVAILABILITY OF SPECIFICATIONS LISTED IN THE DOD INDEX OF SPECIFICATIONS AND STANDARDS (DODISS) AND DESCRIPTIONS LISTED IN THE ACQUISITION MANAGEMENT SYSTEMS AND DATA REQUIREMENTS CONTROL LIST, DOD 5010.12-L (DEC 1999)**

Copies of specifications, standards, and data item descriptions cited in this solicitation may be obtained --

- (a) From the ASSIST database via the Internet at <http://assist.daps.mil>; or
- (b) By submitting a request to the --

DEPARTMENT OF DEFENSE SINGLE STOCK POINT (DODSSP)  
 BUILDING 4 SECTION D  
 700 ROBBINS AVENUE  
 PHILADELPHIA PA 19111-5094

TELEPHONE: (215) 697-2667/2179  
 FACSIMILE: (215) 697-1462.

(FAR 52.211-2)

**L23 COMPLIANCE WITH VETERANS' EMPLOYMENT REPORTING REQUIREMENTS (MAR 1998)**

By submission of its offer, the offeror represents that, if it is subject to the reporting requirements of 38 U.S.C. 4212(d) (i.e., the VETS-100 report required by FAR clause 52.222-37, Employment Reports on Disabled Veterans and Veterans of the Vietnam Era), it has submitted the most recent report required by 38 U.S.C. 4212(d).

(DFARS 252.209-7003)

**L54.01 SITE VISIT (APR 1984)**

Offerors are urged and expected to inspect the site where services are to be performed and to satisfy themselves regarding all general and local conditions that may affect the cost of contract performance, to the extent that the information is reasonably obtainable. In no event shall failure to inspect the site constitute grounds for a claim after contract award.

(FAR 52.237-1)

**L74 TYPE OF CONTRACT (APR 1984)**

The Government contemplates award of a **FIRM FIXED PRICE w/ Escalation Provision** contract resulting from this solicitation.

(FAR 52.216-1)

**L87.100 CONDITIONS FOR OFFERS (DESC JUN 2000)**

(a) Offerors must submit a price for the total requirement. Offers for less than the total requirement will not be considered for award.

(b) The price for each multiyear option period will be determined by escalating the offered monthly price to account for changes in the Consumer Price Index for All Urban Consumers (CPI-U) for the South as follows:

**EXAMPLE:****For the 1<sup>st</sup> Multiyear Option Period:**

CPI-W May 2006 x offered monthly price for the first option period = monthly price for CLIN 1001 for  
CPI-W May 2001 1<sup>st</sup> multiyear option period

**For the 2<sup>nd</sup> Multiyear Option Period:**

CPI-W May 2011 x offered monthly price for the second option period = monthly price for CLIN 1001 for  
CPI-W May 2001 2<sup>nd</sup> multiyear option period

**For the 3<sup>rd</sup> Multiyear Option Period:**

CPI-W May 2016 x offered monthly price for the third option period = monthly price for CLIN 1001 for  
CPI-W May 2001 3<sup>rd</sup> multiyear option period

(c) In the event that the monthly price is changed during an option period (due to increases or decreases in the services to be provided), for purposes of calculating the price for future option periods, the offered monthly price for the initial multiyear period will be adjusted by the amount of change to the monthly price reduced to account for changes in the CPI-U.

(DESC 52.207-9F03)

**L96 ADMINISTRATION OF THE SMALL BUSINESS SUBCONTRACTING PROGRAM (DESC FEB 1999)**

The SMALL BUSINESS SUBCONTRACTING PLAN clause contained in any contract awarded under this solicitation will be administered by the cognizant Defense Contract Management District.

(DESC 52.242-9F15)

**L196 PREPROPOSAL CONFERENCE (AARD) (DESC AUG 1993)**

A Preproposal Conference, in conjunction with the site visit, will be held on July 19, 2000 commencing at 0900 in the Marne room of the Marne Club at Ft. Stewart, Georgia. Meeting room facility location will be provided to all contractors attending at a later time. Contractors are requested to submit by letter, telephone, or fax the name(s) of the individual(s) who plan to attend, on or before July 7, 2000.

(DESC 52.215-9F01)

**L203 HANDCARRIED OFFERS AND EXPRESS DELIVERY SERVICE (DESC JAN 1998)**

(a) Any handcarried offer must be received at the depository indicated on the Standard Form (SF) 33 or SF 1449 of this solicitation by the date and time specified for receipt of offers. Evidence to establish the time of receipt at the Government installation is the time/date stamp of that installation on the solicitation wrapper or other documentary evidence of receipt maintained by the installation.

(b) Offers delivered by an express delivery service will be considered "handcarried." Therefore, bidders/offerors that respond to this solicitation using an express delivery service must ensure that the express delivery service "handcarries" the offer to the depository indicated on the SF 33 or SF 1449.

(c) The term **express delivery service** does not include Express Mail delivered by the United States Postal Service. Express Mail will be considered "mail" under the LATE SUBMISSIONS, MODIFICATIONS, AND WITHDRAWALS OF BIDS provision or the Late Offers paragraph of the INSTRUCTIONS TO OFFERORS - COMMERCIAL ITEMS or INSTRUCTIONS TO OFFERORS - COMPETITIVE ACQUISITIONS provision.

(DESC 52.252-9F05)

#### **L205 COMMERCIAL AND GOVERNMENT ENTITY (CAGE) CODE REPORTING (AUG 1999)**

(a) The offeror is requested to enter its CAGE code on its offer in the block with its name and address. The CAGE code must be for that name and address. Enter **CAGE** before the number.

(b) If the offeror does not have a CAGE code, it may ask the Contracting Officer to request one from the Defense Logistics Information Service (DLIS). The Contracting Officer will--

(1) Ask the Contractor to complete Section B of a DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code;

(2) Complete section A and forward the form to DLIS; and

(3) Notify the Contractor of its assigned CAGE code.

(c) Do not delay submission of the offer pending receipt of a CAGE code.

(DFARS 252.204-7001)

### **SECTION M - EVALUATION FACTORS FOR AWARD**

#### **M2.03-1 SOCIOECONOMIC EVALUATION (OCT 1996) - DLAD**

The Socioeconomic Proposal provided by the offeror under 52.215-9002 will be evaluated on a comparative basis among all offerors. An offeror that proposes a higher percentage, complexity level, and variety of participation by small, small disadvantaged and women-owned small businesses combined, generally will receive a higher rating on this factor. An offeror's efforts to develop additional opportunities for small, small disadvantaged and women-owned small businesses will also be comparatively evaluated with the proposals of other offerors. Offerors' proposals for socioeconomic support will be made a part of any resulting contract for use in determining how well the Contractor has adhered to its socioeconomic plan. This plan will be monitored by the cognizant Defense Contract Management Command's small business office as a means of assisting the Contracting Officer in determining how well the Contractor has in fact performed. This determination will then be used as a consideration prior to option exercise and future source selection decisions. Performance on prior contracts in subcontracting with and assisting small, small disadvantaged, and women-owned small businesses will be part of past performance evaluation.

(DLAD 52.215-9003)

#### **M28.100 EVALUATION OF OFFERS (DESC JUN 2000)**

(a) Award of this contract shall be made by using source selection procedures. Proposals submitted in response to this solicitation should be prepared in accordance with the Proposal Format and Content Clause and will be evaluated by a board of one or more Government personnel. Final selection will be made by the Source Selection Authority based on an overall assessment of each offeror's technical and price proposals. Judgment on the part of the Government evaluator(s) is implicit in the entire source selection process. The resultant contract shall represent the best overall value to the Government.

(b) For purposes of this solicitation, price and technical merit are equal in importance. However, as proposals become more equal in their technical merit, the price becomes more important.

(i) **PRICE EVALUATION.** The Government reserves the right to award to other than the lowest evaluated offer. The low offer will be determined by computing the total cost to the Government for the initial five period of performance, plus the three (3) five year options periods.

(ii) **TECHNICAL EVALUATION.** Technical proposals will be rated and ranked against the evaluation factors listed below. Factors 1 and 2 are equal in importance, and significantly more important than Factor 3.

#### **FACTOR 1 OPERATIONAL CAPABILITY**

The Government will evaluate the offeror's ability to meet the operational requirements. This includes the ability to fuel vehicles, control traffic, to provide the services for the entire length of the contract period, ability of components to be

efficiently maintained and with sufficient redundancy to ensure 24 hours a day, 7 days a week operations, to meet environmental requirements, provide automated information and an interface with the Fuels Automated System (FAS), and the efficiency of expansion capability to meet future needs.

## **FACTOR 2 PAST PERFORMANCE**

The Government will evaluate the offeror's past performance. In doing this, the Government may consider information in the offeror's proposal and information obtained from other sources, including past and present customers and their employees, other subcontractors, and any others who may have useful information. Offerors lacking relevant past performance history shall receive a neutral evaluation for past performance.

A record of acceptable past performance will not result in a favorable assessment of an otherwise unacceptable proposal.

## **FACTOR 3 SUBCONTRACTING**

The Government will evaluate the offeror's commitment to subcontracting with small, small-disadvantaged, and small, woman-owned businesses.

(c) After each evaluation, each of the factors described in (b)(ii) above will be given one of the following ratings:

- (1) Exceptional.
- (2) Very Good
- (3) Acceptable.
- (4) Marginal.
- (5) Unsatisfactory.

Proposals may be rated differently within each category, i.e., two proposals may receive an exceptional rating, but one may be more exceptional than the other.

## **M43.05 EVALUATION OF OPTIONS (JUL 1990)**

Except when it is determined in accordance with FAR 17.206(b) not be in the Government's best interest, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. Evaluation of options will not obligate the Government to exercise the option(s).

(FAR 52.217-5)

## **M72 EVALUATION OF OFFERS (EXCEPTIONS/DEVIATIONS) (DESC APR 1997)**

(a) Offerors are expected to submit offers in full compliance with all terms and conditions of this solicitation.  
 (b) Any exceptions/deviations to the terms and conditions of this solicitation will result in the Government's determination that either--

- (1) The exception/deviation is material enough to warrant rejection of the offer in part or in full; or
- (2) The exception/deviation is acceptable.

(c) If the exception/deviation is in reference to a specification contained in this solicitation and the offeror cannot supply product fully meeting the required specification(s), the product can be offered for consideration provided the offeror clearly indicates, by attachment to the offer, the extent to which any product offered differs from the required specification(s).

(d) If the exception/deviation is in reference to a particular test, inspection, or testing method contained in this solicitation, the offer can be considered provided the offeror clearly indicates, by attachment to the offer, the extent to which its offer differs from those requirements.

(e) If the exception/deviation is determined acceptable, offered prices may be adjusted, for evaluation purposes only, by the Government's best estimate of the quantitative impact of the advantage or disadvantage to the Government that might result from making an award under those circumstances.

# OFFEROR SUBMISSION PACKAGE

TO

PROVIDE FUEL DELIVERY SERVICES  
AT  
FORT STEWART, GEORGIA

**SOLICITATION**  
**SP0600-00-R-0066**

INITIAL PERIOD: FIVE YEARS  
WITH THREE FIVE YEAR OPTIONS TO RENEW

## INSTRUCTIONS:

1. The original and one (1) copy of this Offeror Submission Package must be returned to this office with your offer. All documents to be completed and returned are contained in this package. See clause L2.31.100 for additional information to be submitted.
2. Be sure to check your offer prices for accuracy and legibility prior to submission. Be sure to initial all changes, and sign and date the SF 33 in ink.
3. By submission of this package, you are stating that all terms and conditions of the solicitation are accepted and apply to your offer unless clearly stated herein on a separate sheet.
4. Contractors should be aware that they must be registered in the Central Contractor Registration (CCR) database prior to award. See Clause I1.07 for instructions.

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**B.34.01 SERVICES TO BE FURNISHED AND PRICES (DESC JUNE 2000)**

The contractor will provide fuel delivery services as described below at a specified location on Ft. Stewart, Georgia. The Contractor is required to provide all manpower, equipment, material and resources as necessary to provide these services. No Government equipment or facilities will be provided to the contractor.

1. **LOCATION:** Government designated site on Fort Stewart, Georgia.
2. **PERFORMANCE REQUIREMENTS:** The contractor must have the ability to dispense (retail) fuel to a minimum of 50 various combinations of wheeled vehicles and equipment per hour with JP-8, Diesel or Gasoline and four (4) tracked vehicles per hour with JP-8. The contractor must provide automated top and bottom bulk loading capability for 6 bulk refueling vehicles (HEMTT tankers, five thousand gallon tankers and tank and pump units) per hour with aviation grade JP-8; 3 bulk refueling vehicles per hour with Diesel; and 3 bulk refueling vehicles per hour with Gasoline. Vehicle overall dimensions that will use both retail and bulk islands range from approximately 20' to 80' long, 4' to 20' wide x 14' high.

Facilities shall be equipped to support tactical equipment including tracked vehicles of approximately 60 tons in weight and wheeled vehicles transporting them. Tracked vehicles will need to be able to conduct pivot or neutral steering to traverse the refueling area or position themselves in the queue for refueling. The fuel delivery services must allow for expansion as future mission requirements may dictate for additional bulk or retail fueling operations.

3. **ESTIMATED USAGE:** Monthly average usage is indicated in Figure 1:

PRODUCT	MONTHLY AVERAGE
JP-8 (bulk)	133,825 gallons
JP-8 (retail)	72,059 gallons
Gasoline (bulk)	23,104 gallons
Gasoline (retail)	12,398 gallons
Diesel (bulk)	65,827 gallons
Diesel (retail)	13,492 gallons

Note: Minimum Peace Time Operating Stock Authorization (POSA) is: JP-8 aviation grade - 200,000 gallons, Gasoline – 17,700 gallons, and Diesel – 46,890 gallons.

4. **GRADE OF PRODUCT:** Government provided Aviation JP-8, Gasoline and Diesel.
5. **ADDITIONAL SERVICES:** The Government shall provide the Real Property under lease/permit conditions for the facility. The services provided under this contract shall include, as a minimum, the following:

(1) Ancillary Facilities:

(a) All tanks and facilities used to provide the services shall meet the requirements of the current American Petroleum Institute (API) Standards, National Fire Protection Association (NFPA) Codes, National Electric Codes, and all local, state, federal laws and regulations applicable to tanks and facilities of the type utilized. These facilities should meet best commercial standards with components and fixtures that allow proper service interface with military tactical and non-tactical vehicles and equipment. The Contractor shall be responsible for obtaining all permits necessary for operating these facilities, including a Clean Air Permit when required.

(b) Bulk loading racks shall be equipped with filter separators equal to or better than the requirement under API 1581. All ancillary equipment and piping in contact with JP-8 shall conform to military aviation standards.

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(c) Retail dispensing pumps shall be equipped with in-line filters capable of sediment removal to 10 mg/l or less and water removal to 10 ppm or less.

(d) Permanent grounding points and bonding cables shall be provided at bulk loading racks.

(e) Facilities shall be equipped to provide air and water for vehicle servicing.

(f) Retail dispensing pumps shall be configured with adequate energy efficient lighting for a 24-hour/day operation and automated key lock system for self-service by the customer. The truck bulk loading rack shall be configured with adequate, energy efficient lighting and automated key lock system for operation during normal business hours and during all contingencies as stated in 5. (5)(a). Bulk loading must be supervised by the contractor.

(g) Automated facility shall consist of latest version of DoD standard source data collection equipment (Fuel Master 2550) and shall be designed to interface all receipts, bulk and retail issues and accounting transactions to the Fuels Automated System (FAS).

- (1) The Fuels Automated System (FAS) is an Automated Information System (AIS) designed to support the Defense Energy Support Center (DESC) and the Military Services in performing their responsibilities in fuel management and distribution. FAS is a multi-functional AIS which provides for point of sale data collection, inventory control, finance and accounting, procurement, and facilities management. The contractor shall furnish computer equipment capable of running/interfacing with FAS software programs. Hardware specifications are established by DESC-S. Contractor will coordinate with appropriate POC to determine hardware requirements.

**Note:** The monthly telephone bill used for the FAS will be reimbursed by the Government upon presentation of supporting documentation and an invoice certified by the COR. No fees or administrative charges are allowed to be added to the invoice.

(h) The Contractor shall adhere to the Ft. Stewart Installation Design Guide.

(i) The Contractor shall provide weekly project status reports during construction to the Contracting Officer and COR prior to the start of performance.

(j) The facility shall provide for safe access and exit and a safe traffic pattern within the facility. Traffic flow pattern to and from the facility shall be provided by the installation during the preproposal conference.

(k) Tank truck bulk loading and vehicle retail pump dispensing areas shall be provided with a weather cover. The Contractor shall ensure that the underside of the cover is high enough to allow operator adequate clearance when walking on top of the tank trucks.

(l) The Contractor shall ensure all fuel control meters are calibrated semi-annually.

(m) The facility shall be enclosed with security fencing IAW installation policy.

(n) The Contractor shall provide an auxiliary power source to enable the facility to be operational 24 hours per day during power outage and emergency situations.

(o) No off-site tie-in is available for septic system and storm water drain.

(p) Utilities tie-in points will be provided by installation.

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(2) Operations:

- (a) Ft. Stewart Director of Readiness (DOR) shall provide the contractor with a complete list of vehicles and equipment authorized key access to automated dispensing fuel facility. The list shall include all information required for the Contractor's input to the database.
- (b) The contractor shall be responsible for issuing and revoking keys as requested in writing from the DOR. The Contractor shall issue keys within five working days after receiving the written request from DOR for additional requirements. Request for replacement keys shall be verified by signature of the COR.
- (c) The Contractor shall maintain databases as necessary to provide all reports required by the contract, including but not limited to, customer account numbers, responsible office for keycard holders, keycard serial numbers, and other keycard data. The Contractor shall provide required reports as prescribed by the DOR.
- (d) The Contractor shall maintain inventory accountability IAW contract clause I119.04, or as directed by the COR.
- (e) The Contractor shall establish a written product quality control plan and quality control procedures IAW API and Army requirements for aviation and ground fuels to include daily Aqua-Glo tests on JP8 bulk loading rack, monthly filter effectiveness sampling on all filter separators, semi-annual bulk storage tank samples and random receipt samples. All receipts shall be visually examined for clear and bright condition and API gravity taken to verify product grade prior to unloading.
- (f) The Contractor shall develop and maintain a Spill Contingency Plan for the facility that interfaces with the Ft. Stewart Oil and Hazardous Substance Spill Prevention and Response Plan. The Contractor shall provide a means of immediately notifying the installation Fire Department of any emergency 24 hours a day IAW NFPA provisions.

(3) Product Resupply Ordering:

- (a) Resupply orders for JP-8, gasoline and diesel will be submitted by the Contractor to the Defense Energy Support Center Houston (DESC-HU). The Contractor shall place orders in advance as prescribed by DESC-HU for resupply of bulk product to ensure timely order and delivery.

(4) Product Receipt:

- (a) The Contractor shall ensure that the receipt tanks are gauged before and after tank truck receipt and when netted to 60 degrees Fahrenheit is compared with the issue tank figure to determine variance. Complete documentation for each delivery shall be forwarded to DESC-HU.
- (b) The Contractor shall be responsible for government-owned petroleum product IAW clause I116 and I119.04.

(5) Manning Requirement and Emergency Contact:

- (a) The contractor must have an individual who can be contacted at any time for matters pertaining to the facilities.
- (b) The Contractor shall establish a quarterly training program to provide training to military personnel on the operation of the bulk loading rack and dispensing pumps to ensure safety and proper operation during use and to prevent spills.
- (c) The Contractor shall provide an individual after normal working hours to supervise the bulk loading during unit deployment and exercises on a 2 hour notification by the DOR.
- (d) Emergency contact numbers will be provided to the contractor. The Ft. Stewart Oil and Hazardous Substance Spill Prevention and Response Plan will be available and applicable telephone numbers for emergency response team, fire department and other personnel as required by the installation.



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- (e) The Contractor shall be responsible for spill response, spill containment and any clean up associated with spills IAW clause H19 and the Ft. Stewart Oil and Hazardous Substance Spill Prevention and Response Plan. In the event of a spill, the Contractor shall notify installation officials IAW the Spill Plan. Contractor shall be responsible for proper disposal of contaminated items associated with any spill and any required remediation.
- (f) The Contractor shall perform and maintain reports, notifications, tests, and inspections as necessary. Records of said items will be available upon request and kept on file for the period mandated by local, state or federal regulatory requirements.

6. **QUALITY SURVEILLANCE PLAN**

- (a) The contractor will develop a quality surveillance plan (QSP) for monitoring contract performance. This plan will be submitted to the Contracting Officer for review and approval within 60 days after contract award. Any disagreements regarding the QSP will be resolved at least one level higher than the Contracting Officer.

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7. **CONTRACT PERFORMANCE PERIOD:** The contract shall be for a period of five (5) years with three 5-year renewal options.

**CONTRACT LINE ITEM 1001 (MUCC):** The prices for the services and facility to be provided during the performance of the initial 5 year period and the three optional 5 year periods (See clause L87.100(b)):

**BASE PERIOD**

**PRICE PER MONTH**

Years 1 through 5

\$ \_\_\_\_\_

**FIRST OPTION**

Years 6 through 10

\$ \_\_\_\_\_

**SECOND OPTION**

Years 11 through 15

\$ \_\_\_\_\_

**THIRD OPTION**

Years 16 through 20

\$ \_\_\_\_\_

**SUBLINE ITEM 1002 - NOT TO EXCEED \$ \_\_\_\_\_/YR. (COMM)**

a. FAS Telephone Line and Facsimile Telephone:

The Contractor will be reimbursed for direct out-of pocket costs for the FAS Telephone Line and Facsimile Telephone. Invoices for reimbursement shall be certified by the QSR and include supporting documentation.

**SUBLINE ITEM 1003 - NOT TO EXCEED \$ \_\_\_\_\_/YR. (PSMM)**

a. Contractor is to provide \_\_\_\_\_ initial keys/cards the first contract year and at the start of second year and subsequent years, shall provide \_\_\_\_\_ keys/cards annually as required by the DOL/COR at a cost of \$ \_\_\_\_\_ PER KEY.

**SUBLINE ITEM 1004 - NOT TO EXCEED \$ \_\_\_\_\_/YR. (OVRT)**

a. Contractor shall be reimbursed for work performed outside normal working hours when authorized by the DOL/COR. Contractor shall be paid at a per hour rate of \$ \_\_\_\_\_ PER HOUR.

**SUBLINE ITEM 1005 - NOT TO EXCEED \$ \_\_\_\_\_/YR. (SLFE)**

a. Contractor will be reimbursed for direct out-of pocket costs only for any federal, state or local real estate tax, or other taxes on facility, if assessed. Invoices for reimbursement shall be certified by the QSR and include supporting documentation.

**SUBLINE ITEM 1006 - NOT TO EXCEED \$ \_\_\_\_\_/YR. (PSMM)**

a. Contractor will be reimbursed for direct out-of pocket costs only for the replacement of stolen or damaged fire extinguishers in excess of 10 each per year. Invoices for reimbursement shall be certified by the QSR and include supporting documentation.

(DESC 52.210-9F02)

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**G9.07 ELECTRONIC TRANSFER OF FUNDS PAYMENTS - CORPORATE TRADE EXCHANGE (DFSC OCT 1997)**

(a) This clause does not apply to orders for Federal/Civilian Agency deliveries.

(b) The Contractor shall supply the following information to the Contracting Officer no later than 3 days after contract award unless the Contractor certifies in writing to the Contracting Officer that the Contractor does not have an account with a financial institution or an authorized payment agent:

NAME OF RECEIVING BANK: \_\_\_\_\_  
(DO NOT EXCEED 29 CHARACTERS)

CITY AND STATE OF RECEIVING BANK: \_\_\_\_\_  
(DO NOT EXCEED 20 CHARACTERS)

AMERICAN BANKERS ASSOCIATION NINE DIGIT IDENTIFIER OF RECEIVING BANK: \_\_\_\_\_

ACCOUNT TYPE CODE: (Contractor to designate one)

☐ CHECKING TYPE 22

☐ SAVINGS TYPE 32

RECIPIENT'S ACCOUNT NUMBER ENCLOSED IN PARENTHESES: \_\_\_\_\_  
(DO NOT EXCEED 15 CHARACTERS)

RECIPIENT'S NAME: \_\_\_\_\_  
(DO NOT EXCEED 25 CHARACTERS)

STREET ADDRESS: \_\_\_\_\_  
(DO NOT EXCEED 25 CHARACTERS)

CITY AND STATE: \_\_\_\_\_  
(DO NOT EXCEED 25 CHARACTERS)

**NOTE:** Additional information may be entered in EITHER paragraph (c) OR paragraph (d) below. Total space available for information entered in (c) OR (d) is 153 characters.

**(c) SPECIAL INSTRUCTIONS/OTHER IDENTIFYING DATA:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(DO NOT EXCEED 153 CHARACTERS)

OR

(d) **THIRD PARTY INFORMATION:** Where payment is to be forwarded from the receiving bank to another financial institution for deposit into Contractor's account, the following information must be supplied by the Contractor: Second Bank Name, City/State and/or Country, Account Number, and Account Name.

## A blank sheet of graph paper with a grid of small squares. The grid consists of 20 columns and 10 rows of squares. The lines are thin and black, creating a uniform pattern across the page.

(e) Any change by the Contractor in designation of the bank account to receive electronic transfer of funds in accordance with this clause must be received by the Contracting Officer no later than 15 days prior to the date the change is to become effective.

(g) In the event CTX payments cannot be processed, the Government retains the option to make payments under this contract by check.

(1) The bank designated as the receiving bank must be located in the United States and must be capable of receiving Automated Clearing House (ACH) transactions. The appropriate American Bankers Association nine-digit identifier must be supplied in order for payments to be processed through CTX.

(3) The Third Party Information supplied in (d) above will be located in the first RMT segment of the CTX payment information sent to the receiving bank.

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**K1.01-5 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FEB 1999)**

The offeror represents that--

(a) It--

☐ has

☐ has not--

participated in a previous contract or subcontract subject to the EQUAL OPPORTUNITY clause of this solicitation;

(b) It--

☐ has

☐ has not--

filed all required compliance reports; and

(c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

(FAR 52.222-22)

**K1.01-6 AFFIRMATIVE ACTION COMPLIANCE (APR 1984)**

THE FAR REPRESENTATION IN THE FOLLOWING PARAGRAPH SHALL BE COMPLETED BY EACH OFFEROR WHOSE OFFER IS \$50,000 OR MORE AND WHO HAS 50 OR MORE EMPLOYEES.

This representation--

☐ DOES APPLY.

☐ DOES NOT APPLY.

The offeror represents that--

(a) It--

☐ has developed and has on file

☐ has not developed and does not have on file--

at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2); or

(b) It--

☐ has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(FAR 52.222-25)

**K1.06 CONTRACTOR IDENTIFICATION NUMBER – DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER (DEC 1996)**

(a) **Contractor Identification Number**, as used in this provision, means **Data Universal Numbering System (DUNS) number**, which is a nine-digit number assigned by Dun and Bradstreet Information Services.

(b) Contractor identification is essential for complying with statutory contract reporting requirements. Therefore, the offeror is requested to enter, in the block with its name and address on the Standard Form 33 or similar document, the annotation “**DUNS**” followed by the DUNS number which identifies the offeror’s name and address exactly as stated in the offer.

(c) If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. A DUNS number will be provided immediately by telephone at no charge to the offeror. For information on obtaining a DUNS number, the offeror should call Dun and Bradstreet at 1-800-333-0505. The offeror should be prepared to provide the following information.

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- (1) Company name
- (2) Company address.
- (3) Company telephone number.
- (4) Line of business.
- (5) Chief executive officer/key manager.
- (6) Date the company was started.
- (7) Number of people employed by the company.
- (8) Company affiliation.

(d) Offerors located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at <http://www.dbisna.com/dbis/customer/custlist.htm>. If an offeror is unable to locate a local service center, it may send an email to Dun and Bradstreet at [globalinfor@dbisma.com](mailto:globalinfor@dbisma.com).

(FAR 52.204-6)

**K7 COST ACCOUNTING STANDARDS NOTICES AND CERTIFICATION (APR 1998)**

**NOTE:** This notice does not apply to small businesses or foreign governments.

This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract.

If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

**I DISCLOSURE STATEMENT - COST ACCOUNTING PRACTICES AND CERTIFICATION**

(a) Any contract in excess of \$500,000 resulting from this solicitation, will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts that are exempt as specified in 48 CFR 9903.201-1.

(b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

**CAUTION:** In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

(c) Check the appropriate box below:

☐ (1) **CERTIFICATE OF CONCURRENT SUBMISSION OF DISCLOSURE STATEMENT.**

The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows: (i) original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable, and (ii) one copy to the cognizant contract auditor.

(Disclosure must be on Form Number CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement: \_\_\_\_\_

Name and address of cognizant ACO or Federal official where filed:  
\_\_\_\_\_

The offeror further certifies that practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

☐ (2) **CERTIFICATE OF PREVIOUSLY SUBMITTED DISCLOSURE STATEMENT.**

The offeror hereby certifies that Disclosure Statement was filed as follows:

Date of Disclosure Statement: \_\_\_\_\_

Name and address of cognizant ACO or Federal official where filed:  
\_\_\_\_\_

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

☐ (3) **CERTIFICATE OF MONETARY EXEMPTION.**

The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling more than \$25 million (of which at least one award exceeded \$1 million) in the cost accounting period immediately preceding the period in which this proposal

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was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

☐ (4) **CERTIFICATE OF INTERIM EXEMPTION.**

The offeror hereby certifies that (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under subparagraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

**CAUTION:** Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$25 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

**II. COST ACCOUNTING STANDARDS - ELIGIBILITY FOR MODIFIED CONTRACT COVERAGE**

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES clause in lieu of the COST ACCOUNTING STANDARDS clause.

☐ The offeror hereby claims an exemption from the COST ACCOUNTING STANDARDS clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the DISCLOSURE AND CONSISTENCY OF COST ACCOUNTING PRACTICES clause because during the cost accounting period immediately preceding the period in which this proposal was submitted, the offeror received less than \$25 million in awards of CAS-covered prime contracts and subcontracts, or the offeror did not receive a single CAS-covered award exceeding \$1 million. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

**CAUTION:** An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$25 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$25 million or more.

**III. ADDITIONAL COST ACCOUNTING STANDARDS APPLICABLE TO EXISTING CONTRACTS**

The offeror shall indicate below whether award of the contemplated contract would, in accordance with subparagraph (a)(3) of the COST ACCOUNTING STANDARDS clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

☐ YES

☐ NO

(FAR 52.230-1)

**K15.03 CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (APR 1985)**

(a) The offeror certifies that--

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to (i) those prices, (ii) the intention to submit an offer, or (iii) the methods or factors used to calculate the prices offered;

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory--

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above; or

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(2) (i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to subparagraphs (a)(1) through (a)(3) above \_\_\_\_\_ [insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) above have not participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to subparagraphs (a)(1) through (a)(3) above.

(c) If the offeror deletes or modifies subparagraph (a)(2) above, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

(FAR 52.203-2)

**K33.01 AUTHORIZED NEGOTIATORS (DESC JAN 1998)**

The first page of the offer must show names, titles, and telephone and facsimile numbers (and electronic addresses if available) of persons authorized to negotiate with the Government on the offeror's behalf in connection with this solicitation. The offeror or quoter represents that the following persons are authorized to negotiate on its behalf with the Government in connection with this request for proposals or quotations.

(DESC 52.215-9F28)

**K41 WOMEN-OWNED BUSINESS (OTHER THAN SMALL BUSINESS) (MAY 1999)**

(a) **DEFINITION. Women-owned business concern**, as used in this provision, means a concern that is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

(b) **REPRESENTATION.** (Complete only if the offeror is a women-owned business concern and has not represented itself as a small business concern in paragraph (b)(1) of FAR 52.219-1, SMALL BUSINESS PROGRAM REPRESENTATIONS, of this solicitation.) The offeror represents that it [ ] is, [ ] is not a women-owned business concern.

(FAR 52.204-5)

**K45 FACSIMILE INVOICING (DFSC SEP 1988)**

(a) Submission of invoices by facsimile (FAX) is authorized when the offeror will utilize this method of invoicing at all times.

(b) Offeror shall indicate whether or not he intends to submit invoices via FAX:

[ ] YES [ ] NO

(c) See the SUBMISSION OF INVOICES BY FACSIMILE clause for FAX invoicing procedures.

**K88 TAXPAYER IDENTIFICATION (OCT 1998)**

(a) **DEFINITIONS.**

**Common parent**, as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

**Taxpayer Identification Number (TIN)**, as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

(b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.



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(c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

(d) **TAXPAYER IDENTIFICATION NUMBER (TIN).**

☐ TIN: \_\_\_\_\_.

☐ TIN has been applied for.

☐ TIN is not required because--

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(e) **TYPE OF ORGANIZATION.**

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ International organization per 26 CFR 1.6049-4;

☐ Other \_\_\_\_\_.

(f) **COMMON PARENT.**

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

☐ Name and TIN of common parent:

**Name:** \_\_\_\_\_

**TIN:** \_\_\_\_\_

(FAR 52.204-3)

**K94 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (MAR 1996)**

(a) (1) The offeror certifies, to the best of its knowledge and belief, that--

(i) The offeror and/or any of its principals--

(A) Are ☐, are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have ☐ have not ☐, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are ☐, are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

(ii) The offeror has ☐, has not ☐, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES, AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

(b) The offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

(c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the offeror's

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responsibility. Failure of the offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the offeror nonresponsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

(FAR 52.209-5)

**L205      COMMERCIAL AND GOVERNMENT ENTITY (CAGE) CODE REPORTING (AUG 1999)**

(a) The offeror is requested to enter its CAGE code on its offer in the block with its name and address. The CAGE code must be for that name and address. Enter **CAGE** before the number.

(b) If the offeror does not have a CAGE code, it may ask the Contracting Officer to request one from the Defense Logistics Information Service (DLIS). The Contracting Officer will--

(1) Ask the Contractor to complete Section B of a DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code;

(2) Complete section A and forward the form to DLIS; and

(3) Notify the Contractor of its assigned CAGE code.

(c) Do not delay submission of the offer pending receipt of a CAGE code.

(DFARS 252.204-7001)

## SMALL BUSINESS SUBCONTRACTING PLAN

SP0600-00-R-0066, Attachment 2

**OFFEROR:**Solicitation No.: SP0600-

NOTE: If a plant or division-wide Master Plan is being incorporated by reference, place 'X' in box and complete Part I (A thru I) and Part IV only.

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(\* = Continue on separate sheets if necessary.)

(\*\* = Is not applicable with commercial Plan.)

Date of Plan \_\_\_\_\_

(Copy of Master Plan and evidence of approval by the Government Contract Administration Office are required.)

**PART I SUBCONTRACTING GOALS:**

- A. Total dollars planned to be subcontracted: \$ \_\_\_\_\_
- B. Total dollars planned to be subcontracted to small business concerns: \$ \_\_\_\_\_
- C. Total dollars planned to be subcontracted to HUBZone small business concerns: \$ \_\_\_\_\_
- D. Total dollars planned to be subcontracted to small disadvantaged business concerns: \$ \_\_\_\_\_
- E. Total dollars planned to be subcontracted to women-owned small business concerns: \$ \_\_\_\_\_
- F. Percentage of total subcontracting dollars for the use of small businesses: \_\_\_\_\_ %
- G. Percentage of total subcontracting dollars for the use of HUBZone small businesses: \_\_\_\_\_ %
- H. Percentage of total subcontracting dollars for the use of small disadvantaged businesses: \_\_\_\_\_ %
- I. Percentage of total subcontracting dollars for the use of women-owned small businesses: \_\_\_\_\_ %

**J. Principal types of supplies and services to be subcontracted:**

(Indicate types planned for subcontracting to (i) small business, (ii) HUBZone small business, (iii) small disadvantaged business concerns, and (iv) women-owned small business concerns.) (\*)

**K. Describe method used to develop these goals (e.g., Based on procurement history, available resources, etc.)(\*)****L. Were indirect costs included in establishing these goals?**Yes ☐ No ☐

If Yes, describe the method used to determine proportionate share of indirect costs to be incurred with (1) small business concerns, (2) HUBZone small business concerns, (3) small disadvantaged business concerns, and (4) women-owned small business concerns: (\*)

**PART II – SUBCONTRACTING PROCEDURES:**

A. Name of the individual who will administer the offeror's subcontracting program: \_\_\_\_\_  
Include a brief description of this individual's duties:

**B. Describe methods used to identify potential sources for solicitation purposes:**

(indicate with an "X" those that apply)

\_\_\_\_\_ Existing company source lists

\_\_\_\_\_ SBA Procurement Marketing &amp; Access Network (PRO -Net)

\_\_\_\_\_ SBA list of certified Small Disadvantaged Business Concerns

\_\_\_\_\_ National Minority Purchasing Council Vendor Information Service

\_\_\_\_\_ Dept. of Commerce Research and Information Division of Minority Business Development Agency

\_\_\_\_\_ Small, HUBZone small, small disadvantaged, and women-owned small business concerns trade associations

OTHER: \_\_\_\_\_

C. Describe methods used to assure small, HUBZone small, small disadvantaged, and women-owned small business concerns have an equitable opportunity to compete for subcontracts: (\*)

**SMALL BUSINESS SUBCONTRACTING PLAN (CONTINUED)**

**PART III – SUBCONTRACTING PLAN MANAGEMENT:**

**Offeror certifies that the following procedures regarding management of this Subcontracting Plan will be enacted:**  
(Indicate acknowledgment of compliance by annotating “X” in appropriate blocks.)

- ÿ A. Contractor will assist small, HUBZone small, small disadvantaged, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate participation by such concerns.
- ÿ B. Where lists of potential subcontractors are excessively long, Contractor will make a reasonable effort to give all small, HUBZone small, small disadvantaged, and women-owned small business concerns an opportunity to compete over a period of time.
- ÿ C. Contractor will provide adequate and timely consideration of the potentialities of small, HUBZone small, small disadvantaged, and women-owned small business concerns in all “make or buy” decisions.
- ÿ D. Contractor will counsel and discuss subcontracting opportunities with representatives of small, HUBZone small, small disadvantaged, and women-owned small business firms.
- ÿ E. Contractor will provide notice to subcontractors concerning penalties and remedies for misrepresentation of business status as small, HUBZone small, small disadvantaged, and women-owned small business concerns, for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in this Contractor's Subcontracting Plan.
- ÿ F. Contractor will ensure that the clause entitled “Utilization of Small Business Concerns” (Latest Revision), contained in referenced solicitation, will be included in all subcontracts that offer further subcontracting opportunities, and that all large business subcontractors receiving a subcontract in excess of \$500,000 will adopt a plan similar to this Plan.
- ÿ G. Contractor will cooperate in any studies or surveys as may be required.
- ÿ H. Contractor will submit periodic reports in order to allow the Government to determine the extent of compliance by the offeror with this Subcontracting Plan.
- ÿ I. Contractor will submit Standard Form 294, Subcontracting Report for Individual Contracts, and/or Standard Form 295, Summary Subcontract Report, in accordance with the instructions on the forms, or as provided in agency regulations.
- ÿ J. Contractor will ensure that subcontractors agree to submit Standard Forms 294 and 295, as appropriate.
- ÿ K. Contractor will maintain the following types of records to demonstrate procedures that have been adopted to comply with the requirements and goals in this Plan. The records shall include at least the following on a plant-wide or company-wide basis, unless otherwise indicated:
- ÿ 1. Source lists (e.g., PRO-Net), guides, and other data that identify small, HUBZone small, small disadvantaged, and women-owned small business concerns;
- ÿ 2. Organizations contacted in an attempt to locate sources that are small, HUBZone small, small disadvantaged, or women-owned small business concerns;
- ÿ 3. Records of each subcontract solicitation resulting in an award of more than \$100,000; indicate--  
a. Whether small business concerns were solicited, and if not, why not;  
b. Whether HUBZone small business concerns were solicited, and if not, why not;  
c. Whether small disadvantaged business concerns were solicited, and if not, why not;  
d. Whether women-owned small business concerns were solicited, and if not, why not; and  
e. If applicable, the reason why award was not made to a small business concern;
- ÿ 4. Records of outreach efforts to contact (a) trade associations, (b) business development organizations, and (c) conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources;
- ÿ 5. Records of internal guidance and encouragement provided to buyers through (a) workshops, seminars, training, etc., and (b) monitoring performance to evaluate compliance with the program’s requirements; and
- ÿ 6. On a contract-by-contract basis, supporting information for award data submitted by the Contractor to the Government, including the name, address, and business size of each subcontractor. (\*\*)

**PART IV**

\_\_\_\_\_  
**OFFEROR’S SIGNATURE**

\_\_\_\_\_  
**Typed Name and Title**

\_\_\_\_\_  
**Date**

<b>PART V DETERMINATION OF ADEQ UACY/APPROVAL:</b>		<b>CONCURRENCE WITH DETERMINATION:</b> <b>(If nonconcurrence, see attached rationale.)</b>
_____	_____	
ÿ Division Chief approval, if no subcontracting opportunities determined.	Contracting Officer	DESC-DU _____Date
ÿ Approval 2 levels above CO if SDB Goal is less than 5%.	_____	_____
_____	Title/Signature	
Date		
DESC-P Form 1, Apr 99 (supersedes the May 96 version) – Previous editions are obsolete.		

DISTRIBUTION: DATE _____; CESAS-RE-RM _____; FT STEWART _____; FORSCOM _____; DESC _____; CONTRACTOR/LESSEE _____
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**LEASE NO. DACA21-1-00-3429  
DEPARTMENT OF THE ARMY  
LAND LEASE  
FORT STEWART  
LIBERTY COUNTY, GEORGIA**

**-DRAFT-**

**THIS LEASE**, made on behalf of the United States, between the **SECRETARY OF THE ARMY**, hereinafter referred to as the "Secretary," and «**LESSEE\_NAME**», a company duly organized and existing under and by virtue of the laws of the State of Georgia, with principal offices in \_\_\_\_\_, hereinafter referred to as the "Contractor/Lessee."

**WITNESSETH:**

The Secretary, by the authority of Title 10, United States Code, Section 2667, and pursuant to that certain Contract No. SP0600-00-R-0066, dated, «Term\_begin\_date» hereinafter called the "Contract," between the U.S. Defense Energy Support Center (DESC), hereinafter referred to as the "Agency," and the Contractor/Lessee, hereby leases to the Contractor/Lessee the land, hereinafter referred to as the "Premises," identified in Exhibits A and B, attached hereto and made a part hereof, in order to fulfill the Contractor/Lessee's obligations under the Contract for the design, construction, operation, maintenance, replacement, rehabilitation, and development of a privately-owned, privately-operated Automated Fuel Dispensing Facility at Fort Stewart, Georgia.

**THIS LEASE** is granted subject to the following conditions:

**1. TERM**

Said premises are hereby leased for a term of one hundred eighty-eight (188) days beginning «Term\_begin\_date», and ending «Term\_end\_date», for the purpose of design and construction of an Automated Fuel Dispensing Facility. Thereafter, the Lease will extend for a term of five (5) years beginning «Term\_begin\_date», and ending «Term\_end\_date», for the operation, maintenance, replacement, rehabilitation, and development of a privately-owned, privately-operated Automated Fuel Dispensing Facility. The Contractor/Lessee shall have three (3) five-year options to renew this Lease to coincide with renewal of the Contract. Said term extensions

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will not exceed a total term of twenty (20) years for the operation, maintenance, replacement, rehabilitation, and development of the Automated Fuel Dispensing Facility.

**2. CONTRACT-LEASE RELATIONSHIP**

**a.** The lease and the Contract shall not merge. In the event that the terms and conditions of this lease conflict with the terms and conditions of the Contract, the terms and conditions of the Contract shall prevail. A default under the Contract shall constitute a default under this lease. Unless otherwise specified in this Lease, any and all Government rights and remedies as set forth in the Contract and in this lease will be available to the Government on a cumulative basis to enforce the provisions of this lease.

**b.** This lease shall not be terminated by the Secretary prior to the termination of the Contract, except in accordance with the condition on COMPLIANCE, DEFAULTS, CLOSURE, REVOCATION AND TERMINATION of this lease. Termination of the Contract will result in termination of the Lease, in accordance with the condition on COMPLIANCE, DEFAULTS, CLOSURE, REVOCATION AND TERMINATION.

**3. CONSIDERATION**

The consideration for this lease is the operation and maintenance of the Premises and the construction, operation, maintenance, management, renovation, replacement, rehabilitation and development of the facilities and improvements by the Contractor/Lessee. As used in this lease the term "replacement" shall be construed to mean the replacement in whole or in part of any structure or improvement so worn or damaged by any cause as to no longer adequately serve its designed function with normal maintenance. As used in this lease the term "rehabilitation" shall mean to restore in whole or in part any structure or improvement to a good and useable condition.

**4. NOTICES**

All correspondence and notices to be given pursuant to this Lease shall be addressed, if to the Contractor/Lessee, to «GranteeName», «Grantee\_Address\_1», «Grantee\_Address\_2», and, if to the Secretary, to the District Engineer, U.S. Army Engineer District, Savannah, Attention: Chief, Real Estate Division, 100 West Oglethorpe Avenue (31401-3640), P.O. Box 889, Savannah, Georgia 31402-0889, or as may from time to time otherwise be directed by the parties. Copies of correspondence and notices will also be furnished to the Installation Commander, Commander, 3D Infantry Division (Mechanized) and Fort Stewart, ATTN: AFZP-PWB-R, Fort Stewart, Georgia 31314-4928, and to the Contracting Officer, Defense Energy Support Center, 8725 John J. Kingman Road, Suite 4950, Fort Belvoir, Virginia 22060-6222, or their designated representatives. Notice shall be deemed to have been duly given if and when enclosed in a properly sealed envelope, addressed as aforesaid and deposited postage prepaid, certified mail, return receipt requested, in a post office regularly maintained by the United States Postal Service.

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Correspondence originating from the Installation Commander, District Engineer or Contracting Officer, Defense Energy Support Center, will be copy furnished to the other two parties.

**5. AUTHORIZED REPRESENTATIVES**

Except as otherwise specifically provided, any reference herein to "Secretary", "District Engineer", or "said officer" shall include their duly authorized representatives. Any reference to "Contractor/Lessee" shall include any sublessees, assignees, transferees, successors and their duly authorized representatives.

**6. SUPERVISION BY THE INSTALLATION COMMANDER**

The use and occupation of the premises shall be subject to the general supervision and approval of the Installation Commander, hereinafter referred to as "said officer", and to such rules and regulations as may be prescribed from time to time by said officer through the Contracting Officer covering the operation, security, access, or other aspects of the mission of the installation. In the event rules and regulations give rise to costs that could not have been reasonably foreseen in the Contractor/Lessee's proposal to the Government, these costs will be handled in accordance with the Changes Clause of the Contract.

**7. TRANSFERS, ASSIGNMENTS AND SUBLEASES**

a. Without prior permission in writing from the District Engineer, and notice to the Contracting Officer, DESC, and the Installation Commander, the Contractor/Lessee shall neither transfer nor assign this lease or a controlling interest therein (including, without limitation, mergers, consolidations, reorganizations, or other business combinations), nor sublet the Premises, or any part thereof, nor grant any interest, privilege, or license whatsoever in connection with this lease, nor shall this lease be assignable or transferable by process of operation of law including, but not limited to, insolvency proceedings, bankruptcy, or intestacy, or in any other manner whatever.

(1) Failure to comply with this condition or the procedures described herein shall constitute a material breach of this lease for which this lease may be revoked immediately by the District Engineer, with notice sent to the Contracting Officer and Installation Commander, and the Secretary shall not be obligated to recognize any right of any person or entity to an interest in this lease or to own or operate the facilities authorized hereunder acquired in violation hereof.

(2) The Contractor/Lessee shall advise the person(s) or entity proposing to enter into a transaction described in subsection a. above that the District Engineer, Contracting Officer, and Installation Commander shall be notified and that the proposed transaction is subject to review and approval by the District Engineer in his sole discretion. The Contractor/Lessee shall request in writing the District Engineer's approval of the proposed transaction and shall promptly provide the District Engineer all relevant documents related to the transaction and such



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additional documentation and information as shall be requested by the District Engineer, including the name(s) and qualifications of the person(s) or entity involved in the proposed transaction.

(3) The Contractor/Lessee may allow independent private service companies to enter and conduct business on the premises for the benefit of the Contractor/Lessee on an as-called basis without a formal sublease or license agreement, provided that the service is occasional and incidental to the Contractor/Lessee's operation. These arrangements are not subject to the approval requirements of subsection a. above.

b. The District Engineer, in exercising discretion to approve or disapprove transfer, assignments, or subleases, may consider the following factors without limitation: the financial and management qualifications of the individuals or entities that would thereby obtain a controlling interest in the facilities or services authorized hereunder, the experience of such individuals or entities with similar operations, and the ability of such individuals or entities to operate the premises and provide the services required hereunder.

c. The term "controlling interest" shall mean an interest beneficial or otherwise, which by virtue of ownership interest in the Contractor/Lessee or otherwise entitles a party to exercise substantial managerial influence over the operations of the Contractor/Lessee. By way of example only, and not by way of limitation, the following shall be deemed to constitute controlling interests: (1) ownership of 50% or more of the interests in Contractor/Lessee, regardless of the type of entity; (2) if Contractor/Lessee is either a general partnership or limited partnership, any general partner; (3) if Contractor/Lessee is a limited partnership, a limited partnership interest which exceeds 49% of the limited partnership interests in Contractor/Lessee; or (4) if Contractor/Lessee is a limited liability company, its manager or managing member. The District Engineer will determine at the request of interested parties whether or not an interest in a lease constitutes a controlling interest within the meaning hereof.

d. The Contractor/Lessee may not enter into any agreement with any entity or person, except employees of the Contractor/Lessee, to exercise substantial management responsibilities for the operation authorized hereunder or any part thereof without the prior written approval of the Installation Commander.

e. The Contractor/Lessee further agrees that in the event of any assignment or sublease of the Premises, it shall provide to the Environmental Protection Agency (EPA) and the Georgia Department of Natural Resources by certified mail a copy of the agreement or sublease of the Premises, as the case may be, within fourteen (14) days after the effective date of such transaction. The Contractor/Lessee may delete the financial terms and any other proprietary information from the copy of any agreement of assignment or sublease furnished pursuant to this condition.

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**8. COST OF UTILITIES**

**CONDITION DELETED**

**9. MORTGAGE OF PREMISES**

**a.** No mortgage shall be executed, and no bonds, shares of stock, or other evidence of interest in, or indebtedness upon the assets of the Contractor/Lessee, including this Lease, shall be issued, except for the purposes of installing, enlarging, refinancing or improving equipment and facilities and only then with the prior approval of the Secretary. In the event of default on such approved mortgage, encumbrance, or such other indebtedness, or of other assignment, transfer, or encumbrance, the creditor or any assignee thereof shall succeed to the interest of the Contractor/Lessee in such assets but shall not thereby acquire operating rights or privileges. Such operating rights or privileges shall be subject to disposition by the District Engineer.

**b.** The Secretary reserves the right to require as a condition of its approval of a Mortgagee, that the Mortgagee execute a Subordination, Attornment and Non-Disturbance Agreement or similar agreement in a form reasonably acceptable to the Secretary which shall govern the relationship between the Secretary and such Mortgagee.

**10. APPLICABLE LAWS AND REGULATIONS**

**a.** The Contractor/Lessee shall comply with all applicable Federal, state, county and municipal laws, ordinances and regulations wherein the premises are located.

**b.** Any and all taxes imposed by the state or its political subdivisions upon the property or interest of the Contractor/Lessee in the premises shall be paid promptly by the Contractor/Lessee. If and to the extent that the premises owned by the United States and hereby leased to the Contractor/Lessee are later made taxable by state or local governments under an Act of Congress, such taxes shall be paid by the Contractor/Lessee.

**c.** The Contractor/Lessee agrees to pay any and all taxes, levies, rates, assessments or like charges (collectively called "Impositions") relating to the Contractor/Lessee's property, use, occupancy, or development of the premises, such as property taxes, sales and use taxes, licenses and permit fees, fines, penalties, or other like governmental charges, and any and all other governmental levies, taxes, fees, encumbrances, assessments or charges, whether foreseen or unforeseen, general or special, and ordinary or extraordinary.

**d.** The Secretary makes no representations regarding the applicability of any taxes upon the premises. The Contractor/Lessee acknowledges and agrees that it has retained and is relying upon counsel, accountants and/or such other representatives or agents of its choosing with respect to any and all tax issues and advice.

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e. Reimbursement to the Contractor/Lessee for cost of real estate or property taxes shall be in accordance with the terms of the Contract.

**11. CONDITION OF PREMISES**

a. The Contractor/Lessee acknowledges that it has inspected the premises, knows its condition, and understands that the same is leased without any representations or warranties whatsoever except as may be explicitly stated in the Contract and without obligation on the part of the United States to make any alterations, repairs, or additions thereto.

b. An Environmental Baseline Survey (EBS) documenting the known history of the Premises, in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), U.S.C. 9601 et. seq., as amended, with regard to the storage, release or disposal of hazardous substances thereon, is attached hereto and made a part hereof as Exhibit C. Upon expiration, revocation or termination of this lease, an updated EBS shall be prepared to the satisfaction of the said officer, by the Contractor/Lessee, at the Contractor/Lessee's expense. A comparison of the two assessments will assist the said officer in determining any environmental restoration requirements. Any such requirements will be completed by the Contractor/Lessee in accordance with the condition on RESTORATION.

c. The Contractor/Lessee acknowledges that it has reviewed the EBS and other environmental reports prior to accepting this lease. The Contractor/Lessee has inspected, is aware of, and accepts the physical condition and environmental status of the property "as is" on this date and deems it to be safe for the intended use.

**12. PROTECTION OF PROPERTY**

The Contractor/Lessee shall keep the premises in good order and in a clean, sanitary and safe condition by and at the expense of the Contractor/Lessee. The Contractor/Lessee shall be responsible for any damage that may be caused to property of the United States by the activities of the Contractor/Lessee under this lease, and shall exercise due diligence in the protection of all property located on the premises against fire, casualty or damage from any and all other causes. Any property of the United States damaged or destroyed by the Contractor/Lessee incident to the exercise of the privileges herein granted shall be promptly repaired or replaced by the Contractor/Lessee to a condition satisfactory to said officer, or at the election of said officer, reimbursement made therefor by the Contractor/Lessee in an amount necessary to restore or replace the property to a condition satisfactory to said officer.

**13. INSURANCE**

a. At the commencement of this lease, the Contractor/Lessee shall obtain, from a reputable insurance company or companies, liability insurance in an amount not less than that which is

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commercially prudent, reasonable and consistent with sound business practices. In no event shall such liability insurance be less than \$1,000,000 for persons or claims arising from any one incident with respect to bodily injuries or death resulting therefrom, or less than \$1,000,000 for property damage per occurrence, suffered or alleged to have been suffered by any person or persons resulting from the operations of the Contractor/Lessee under the terms of this Lease.

b. The insurance policy or policies shall be of comprehensive form of contract and shall specifically provide protection appropriate for the types of facilities, services and activities involved.

c. The Contractor/Lessee shall purchase and maintain any other type of insurance that is commercially reasonable and prudent for the type of business activity conducted on the premises. Neither the failure to purchase nor the purchase of such insurance shall in any way relieve the Contractor/Lessee of liability to the United States.

d. Any and all insurance required to be maintained by Contractor/Lessee under this lease shall be at Contractor/Lessee's sole cost and expense, shall be issued by an insurance company or companies which are licensed to do business in the state in which the premises are located. On or before the execution of the lease, and thereafter immediately following a renewal, the Contractor/Lessee shall provide or shall require its insurance company to furnish to the District Engineer a copy of the policy or policies, or if acceptable to the District Engineer, certificates of insurance evidencing the purchase of such insurance. The Contractor/Lessee shall require that the insurance company give the District Engineer at least thirty (30) days written notice of any non-renewal, cancellation or change in such insurance. The District Engineer may at his option require closure of any or all of the premises during any period for which the Contractor/Lessee does not have the required insurance coverage or may obtain at Contractor/Lessee's sole cost and expense the required insurance coverage from such companies and at such rates as he determines, and Contractor/Lessee shall promptly reimburse the Government for any and all costs of obtaining such insurance following the Government's demand for repayment.

**14. RIGHT TO ENTER**

The right is reserved to the United States, its officers, agents, and employees to enter upon the premises at any time and for any purpose necessary or convenient in connection with Government purposes; to make inspections; and/or to make any other use of the lands as may be necessary in connection with Government purposes, and the Contractor/Lessee shall have no claim for damages on account thereof against the United States or any officer, agent, or employee thereof. Such purposes shall include, but not be limited to, the following:

a. to conduct investigation and surveys, including, where necessary, drilling, installation of monitoring wells, soil and water sampling, test-pitting, testing soil borings and other activities related to the Fort Stewart Installation Restoration Program (IRP), and any additions or changes to the existing Installation Action Plan (IAP), included by reference herein;

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**b.** to inspect field activities of the Government and its contractors and subcontractors in implementing the Fort Stewart IRP;

**c.** to conduct any test or survey relating to the implementation of the Fort Stewart IRP or environmental conditions on the premises or to verify any data submitted to the Environmental Protection Agency (EPA) or the Georgia Department of Natural Resources by the Government relating to such conditions;

**d.** to construct, operate, maintain, or undertake any other response or remedial action, as required or necessary under the Fort Stewart IRP, including, but not limited to, monitoring wells, pumping wells, and treatment facilities; and

**e.** to conduct Environmental Compliance Assessment System Surveys (ECAS).

**15. HOLD HARMLESS AND INDEMNITY**

**a.** The Contractor/Lessee agrees to assume all risks of loss or damage to property and injury or death to persons by reason of or incident attributable or incident to the condition or state of repair of the premises or to its possession and/or use of the premises or the activities conducted under this lease. The Contractor/Lessee expressly waives all claims against the United States of America for any such loss, damage, personal injury or death caused by or occurring as a consequence of such condition, possession and/or use of the premises by the Contractor/Lessee, or the conduct of activities or the performance of responsibilities under this lease by the Contractor/Lessee. The Contractor/Lessee further agrees to indemnify and hold harmless the United States of America, the Army, its officers, agents and employees, from and against all suits, claims, demands or actions, liabilities, judgments, costs and attorneys' fees arising out of, or in any manner predicated upon, personal injury, death or property damage resulting from, related to, caused by or arising out of the possession and/or use of the premises by the Contractor/Lessee. The Army will give the Contractor/Lessee notice of any claim against it covered by this indemnity as soon as practicable after learning of such claim.

**b.** The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the exercise of the privileges herein granted, or for damages to the property of the Contractor/Lessee, or for damages to the property or injuries to the person of the Contractor/Lessee's officers, agents or employees or others who may be on the premises at their invitation or the invitation of any one of them, and the Contractor/Lessee shall hold the United States harmless from any and all such claims not including damages due to the fault or negligence of the United States or its contractors.

**c.** Subject to the conditions hereinafter set forth, the Contractor/Lessee shall indemnify and hold harmless the Government from any loss, cost, claim, damage, fine, expense, fee or any other liability of whatever nature (collectively "Government Liabilities") imposed upon or

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sustained by the Government: (1) by or as a result of any action of any Federal, state or local agency or authority resulting from the release or threatened release of any hazardous substances into any environmental medium arising or by reason of any negligent operation or willful misconduct on the premises by the Contractor/Lessee or any affiliate, or the Contractor/Lessee's agents, employees or contractors; or (2) by or as a result of any action of any party other than a Federal, state or local agency or authority resulting from the release or threatened release of any hazardous substances into any environmental medium arising or by reason of any negligent operation or willful misconduct on the Premises by the Contractor/Lessee or any affiliate, or the Contractor/Lessee's agents, employees or contractors; or (3) by or as the result of the violation of any Federal or state environmental law by the Contractor/Lessee or any affiliate, or the Contractor/Lessee's agents, employees or contractors; or (4) under CERCLA, or any similar state law as a result of the shipment or disposal of any hazardous substances in a manner giving rise to liability under those statutes by the Contractor/Lessee or any affiliate (collectively, the "Government Indemnified Claims").

**d. Indemnified Costs.** The Contractor/Lessee's obligation with respect to the Government's Indemnified Claims shall include and shall not be limited to payment of all liabilities which the Government is required to pay pursuant to a valid judgment of a competent court or a valid administrative order of a competent regulatory agency or pursuant to any settlement which the Contractor/Lessee has approved in writing, which approval shall not be unreasonably withheld; provided, however, that a rejection of any settlement offer as a result of a good faith judgment by the Contractor/Lessee that the potential judgment plus attorney's fees and costs, including consultant and expert witness fees, would not exceed the settlement amount shall not be deemed to be unreasonable.

**16. RESTORATION**

**a.** Title to all improvements placed or constructed on the premises by the Contractor/Lessee shall, during the term of this lease, remain with the Contractor/Lessee, but shall not be removed, replaced or altered without the prior written approval of said officer, except that replacement of equipment with like kind, which conforms to current code requirements, to provide continuity of service shall not require approval of said officer. At the revocation, termination, or expiration of the lease, the Contractor/Lessee shall vacate the premises, remove its personal property therefrom and restore the premises to a condition satisfactory to said officer, including any environmental restoration. Title to all buildings, structures, facilities, including all equipment and installed fixtures, and any alterations, additions, replacements, or renovations thereto, then located on the premises shall, with the premises, automatically revert and/or be transferred to the United States and shall be vacated and surrendered by the Contractor/Lessee to the District Engineer and shall become the sole and absolute property of the United States, without compensation to the Contractor/Lessee, except compensation through the Contract, and pursuant to applicable provisions therein, of unrecovered amortized costs. To further effectuate such transfer, the Contractor/Lessee agrees, upon request, to deliver to the District Engineer any deeds, assignments, or other instruments of conveyance as the District Engineer shall deem

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necessary to evidence such reversion of title to the United States. For purposes of carrying out the provisions of this condition, the Contractor/Lessee hereby irrevocably constitutes and appoints the District Engineer its true and lawful attorney-in-fact with full power of substitution, to execute, acknowledge, and deliver any such instruments in the name and on behalf of the Contractor/Lessee. This power of attorney-in-fact is, and shall be deemed to be, coupled with an interest and irrevocable. Said power of attorney-in-fact shall not be expanded beyond the intent of this condition.

**b.** Further, the Contractor/Lessee, at no cost to the Government, will remove any structure determined by the Government to be in such condition as to be uneconomically repairable and restore the premises to the satisfaction of the Government. Subject to any other terms and conditions of the Contract or this lease, the Contractor/Lessee shall have the right to use any monies remaining in any reserve or escrow account held pursuant to the lease or Contract to fulfill its obligation under this condition. The availability of funds or lack of funds available in such accounts shall not relieve the Contractor/Lessee from its responsibility to comply with this condition on RESTORATION. In the event that the Contractor/Lessee shall fail or neglect to remove its property and restore the premises, then, at the option of the Government, the property shall either become the property of the Government without compensation therefor, or the Government may cause the property to be removed and no claim for damages against the United States or its officers or agents shall be created by or made on account for such removal and restoration work. The Contractor/Lessee or the holder of the Contract Reserve Account shall also pay on demand any sum which may be expended by the United States after the expiration, revocation, or termination of this lease in restoring the premises. If, however, the lease is terminated by the Government as set out in the condition on COMPLIANCE, DEFAULTS, CLOSURE, REVOCATION AND TERMINATION, subsection e. (2) or e. (3), then the Government shall negotiate a just and equitable settlement with the Contractor/Lessee, subject to the appropriation and availability of funds for such settlement.

**17. NON-DISCRIMINATION**

The Contractor/Lessee shall not discriminate against any person or persons or exclude any person or persons from participation in the Contractor/Lessee's operations, programs or activities conducted on the premises because of race, color, religion, sex, age, handicap or national origin. The Contractor/Lessee will comply with the Americans with Disabilities Act and attendant Americans with Disabilities Act Accessibility Guidelines (ADAAG) published by the Architectural and Transportation Barriers Compliance Board.

**18. SUBJECT TO EASEMENTS**

This lease is subject to all existing easements, or those subsequently granted as well as established access routes for roadways and utilities located or to be located on the premises; provided, that the proposed grant of any new easement or route will be coordinated with the

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Contractor/Lessee, and easements will not be granted which will, in the opinion of the District Engineer, interfere with the use of the premises by the Contractor/Lessee.

**19. SUBJECT TO MINERAL INTERESTS**

This lease is subject to all outstanding mineral interests. As to Federally-owned mineral interests, it is understood that they may be included in present or future mineral leases issued by the Bureau of Land Management (BLM) which has responsibility for mineral development on Federal lands. The Secretary will provide lease stipulations to BLM for inclusion in said mineral leases that are designed to protect the premises from activities that would interfere with the Contractor/Lessee's operations or would be contrary to local law.

**20. COMPLIANCE, DEFAULTS, CLOSURE, REVOCATION AND TERMINATION**

a. The Contractor/Lessee is charged at all times with full knowledge of all the limitations and requirements of this lease and the Contract, and with the necessity for correction of deficiencies, and with compliance with reasonable requests by the District Engineer and the Installation Commander. This lease may be revoked in the event that the Contractor/Lessee violates any of its terms and conditions and continues and persists in such non-compliance, or fails to obtain correction of deficiencies by any sublessees or licensees.

b. In addition to the rights of revocation for non-compliance, the District Engineer, upon discovery of any hazardous conditions within the area covered by the lease that present an immediate threat to health and/or danger to life or property, will so notify the Contractor/Lessee and will require that the affected part or all of the premises be closed to the public and the individual tenants until such condition is corrected and the danger to the public eliminated.

c. In addition to other specific conditions of this lease, each of the following events shall be a default by the Contractor/Lessee and deemed to place the Contractor/Lessee in non-compliance with this lease:

(1) Abandonment. Abandonment of the premises, or the improvements now existing or later constructed on the premises, where such abandonment continues for a period of ten (10) days after notice by Secretary to Contractor/Lessee.

(2) Attachment or Other Levy. If any or all of the premises or any right or interest of the Contractor/Lessee in the premises is subjected to attachment, execution or other levy, or to seizure under legal process which is not released within thirty (30) days.

(3) Insolvency: Bankruptcy. An assignment by the Contractor/Lessee for the benefit of creditors, or the filing of a voluntary or involuntary petition by or against the Contractor/Lessee under any law for the purpose of adjudicating the Contractor/Lessee as bankrupt; or for extending time for payment, adjustment or satisfaction of Contractor/Lessee's liabilities; or



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reorganization, dissolution, or arrangement on account of, or to prevent bankruptcy or insolvency; unless, in case of involuntary actions only, such actions, proceedings, and all consequent orders are dismissed, vacated or terminated within thirty (30) days.

(4) Default in Mortgage Payment. Any default under any mortgage encumbering the leasehold estate of this lease, or under any loan agreement or promissory note secured by any such mortgage which is not cured by the Contractor/Lessee within the applicable cure period, if any, or not otherwise waived in writing by any leasehold mortgagee.

(5) Default in Payment or Performance Under this lease. Failure of the Contractor/Lessee to pay any impositions or other monetary obligations of any nature whatsoever required to be paid by the Contractor/Lessee under this lease when due and payable; or failure of the Contractor/Lessee to observe or perform any of its other covenants, conditions or agreements under this lease or under the terms of any mortgage documents which encumber the leasehold interest in the premises; or the breach of any warranties or representations of the Contractor/Lessee under this lease. For purposes of this condition, all monetary payments required to be made under this lease shall include, but not be limited to, taxes, insurance premiums, and other assessments, together with all other sums the Contractor/Lessee is obligated to pay under this lease.

d. The Contractor/Lessee will be notified of any non-compliance, which notice shall be in writing or shall be confirmed in writing, giving a period of time in which to correct the non-compliance. Failure to satisfactorily correct any substantial or persistent non-compliance within the specified time is grounds for closure of all or part of the premises, temporary suspension of operation, or revocation of the Lease, after notice in writing of such intent (Termination or Revocation Notice), with the United States having the right to re-enter and assume possession of the premises. In acting upon future requests by the Contractor/Lessee to extend the lease, expand the premises, modify authorized activities, or assign the lease, the Government shall take into consideration the Contractor/Lessee's past performance and compliance with the lease terms.

e. The Government may revoke or terminate this lease in whole or in part as set out above or in the event: (1) the Contract is terminated in accordance with its terms; or (2) during any national emergency declared by the President or Congress, the Secretary of the Army determines that a termination is necessary; or (3) the Secretary of the Army determines that termination of the lease is required for military purposes or is necessary in the interest of national defense. The Contractor/Lessee will be given at least thirty (30) days prior written notice by the District Engineer in the event this lease is revoked or terminated in accordance with this condition, except for clause (2) above where advance notice to the Contractor/Lessee shall not be required. In lieu of revocation for violation of the terms and conditions of this lease, the Government may exercise any legal remedy available under the provisions of the Contract.

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**21. PROHIBITED USES**

**a.** The Contractor/Lessee shall not permit gambling on the premises or install or operate, or permit to be installed or operated thereon, any device which is illegal, or use the premises or permit them to be used for any illegal business or purpose. There shall not be conducted on or permitted upon the premises any activity which would constitute a nuisance.

**b.** Occupying any lands, buildings, vessels or other facilities within the premises for the purpose of maintaining a full- or part-time residence is prohibited, except for employees residing on the premises for security purposes, if authorized by the Installation Commander.

**c.** The Contractor/Lessee shall not sell, store or dispense, or permit the sale, storage, or dispensing of beer or other intoxicating liquors on the premises without prior written request and approval of the Installation Commander.

**d.** The Contractor/Lessee shall not, after the date on which fueling operations on the facility first commence, construct or place any structure, improvement or advertising sign or allow or permit such construction or placement without prior written approval of the Installation Commander. Such approval may include a requirement to provide the Government with a performance and payment bond satisfactory to it in all respects and other requirements deemed necessary to protect the interests of the Government. For construction or alteration, additions, modifications, improvements or installations (collectively "work") in the proximity of operable units or solid waste management units (SWMUs) that are part of any Federal or state RCRA Corrective Action Program, State Remediation Consent Orders, or the Fort Jackson Installation Restoration Program, such approval may include a requirement for written approval by the Government's Remedial Project Manager.

**e.** The Contractor/Lessee shall not utilize the premises for any other purpose than what is specifically authorized under the Contract and/or the lease. Use of the premises and facilities for other income-producing activities or services is prohibited.

**22. NATURAL RESOURCES**

The Contractor/Lessee shall conduct no mining operations, remove no sand, gravel, or kindred substances from the ground, commit no waste of any kind, nor in any manner substantially change the contour or condition of the premises except as set forth in the Contract or authorized in writing by the District Engineer. Disposal of excess excavated material during the initial installation of the facilities must be approved verbally by the Operations & Maintenance Division, Fort Stewart, at (912) 767- .

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**23. DISPUTES CLAUSE**

**a.** Except as provided in the Contract Disputes Act of 1978 (41 U.S.C. 601-613) (the Act), all disputes arising under or relating to this lease, but not the Contract, shall be resolved under this clause and the provisions of the Act.

**b.** “Claim”, as used in this clause, means a written demand or written assertion by the Contractor/Lessee seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of lease terms, including without limitation any obligation to engage in environmental removal or restoration activities, or to pay a sum certain in the event that Contractor/Lessee fails or neglects to remove its property and to restore the premises; or other relief arising under or relating to this lease. A claim arising under this lease, unlike a claim relating to this lease, is a claim that can be resolved under a lease clause that provides for the relief sought by the Contractor/Lessee. However, a written demand or written assertion by the Contractor/Lessee seeking the payment of money exceeding \$100,000 is not a claim under the Act until certified as required by subparagraph c. (2) below. The request may be converted to a claim under the Act, by this clause, if it is disputed either as to liability or amount or is not acted upon in a reasonable time. A dispute arising under or relating to the Contract is not a claim as defined by this clause and shall be resolved as provided under the Contract.

**c. (1)** A claim by the Contractor/Lessee shall be made in writing and submitted to the District Engineer for a written decision. A claim by the Government against the Contractor/Lessee shall be subject to a written decision by the District Engineer.

**(2)** For Contractor/Lessee claims exceeding \$100,000, the Contractor/Lessee shall submit with the claim a certification that—

**(i)** the claim is made in good faith;

**(ii)** supporting data are accurate and complete to the best of the Contractor/Lessee’s knowledge and belief; and

**(iii)** the amount requested accurately reflects the lease adjustment for which the Contractor/Lessee believes the Government is liable.

**(3) (i)** If the Contractor/Lessee is an individual, the certification shall be executed by that individual.

**(ii)** If the Contractor/Lessee is not an individual, the certification shall be executed by:

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(A) a senior company official in charge of the Contractor/Lessee's location involved;  
or

(B) an officer or general partner of the Contractor/Lessee having overall responsibility for the conduct of the Contractor/Lessee's affairs.

d. For Contractor/Lessee claims of \$100,000 or less, the District Engineer must, if requested in writing by the Contractor/Lessee, render a decision within sixty (60) days of the request. For Contractor/Lessee-certified claims over \$100,000, the District Engineer must, within sixty (60) days, decide the claim or notify the Contractor/Lessee of the date by which the decision will be made.

e. The District Engineer's decision shall be final unless the Contractor/Lessee appeals or files a suit as provided in the Act.

f. At the time a claim by the Contractor/Lessee is submitted to the District Engineer or a claim by the Government is presented to the Contractor/Lessee, the parties, by mutual consent, may agree to use alternative means of dispute resolution. When using alternate dispute resolution procedures, any claim, regardless of amount, shall be accompanied by the certification described in paragraph c. (2) of this clause, and executed in accordance with paragraph c. (3) of this clause.

g. The Government shall pay interest on the amount found due and unpaid by the Government from (1) the date the District Engineer receives the claim (properly certified if required), or (2) the date that payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the District Engineer receives the claim and then at the rate applicable for each six-month period as fixed by the Treasury Secretary during the pendency of the claim.

h. The Contractor/Lessee shall proceed diligently with the performance of the lease, pending final resolution of any request for relief, claim or action arising under the lease, and comply with any decision of the District Engineer.

## **24. ENVIRONMENTAL PROTECTION**

a. The Contractor/Lessee will use all reasonable means available to protect the environment and natural resources, and where damage nonetheless occurs from activities of the Contractor/Lessee, the Contractor/Lessee shall be liable to restore the damaged resources. The Contractor/Lessee shall not discharge waste or effluent from the premises in such a manner that the discharge will contaminate streams or other bodies of water or otherwise become a public nuisance. The Contractor/Lessee must obtain verbal approval from said officer before any pesticides or herbicides on the List of Standard Pesticides Available to DoD are applied to the

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premises and approval in writing from said officer before any pesticides or herbicides not on the List are applied to the premises.

**b.** The Contractor/Lessee shall be responsible for obtaining and paying for any environmental or other permits required for its operations and its use of the premises under the lease, independent of any existing permits.

**c.** The Government's rights under this lease specifically include the right for Government officials to inspect the premises for compliance with environmental, safety, and occupational health laws and regulations, whether or not the Government is responsible for enforcing them. Such inspections are without prejudice to the right of duly constituted enforcement officials to make such inspections. The Contractor/Lessee shall have no claim on account of any entries against the United States or any officer, agent, employee, or contractor thereof.

**d.** The Contractor/Lessee shall develop and maintain a Spill Contingency Plan for the facility that is independent\_of, yet interfaces with, the Installation Oil and Hazardous Substance Spill Prevention and Response Plan. The Spill Contingency Plan shall be approved by the installation's Environmental Management Office prior to operations. Such plan shall provide a means of immediately notifying the installation's fire department of any emergency, and except for fire response and/or initial spill containment, shall not rely on use of installation personnel or equipment. Should the Army provide any personnel or equipment, except for fire response and/or initial spill containment, on the request of the Contractor/Lessee, or because the Contractor/Lessee was not, in the opinion of the Army, conducting timely cleanup actions, the Contractor/Lessee agrees to reimburse the Secretary for its costs. The plan may be developed in phases as approved sublease activities are identified. Approved sublessees shall provide to the Contractor/Lessee a plan to cover their activities and portion of the premises prior to commencement of operations on the subleased portion, which will be incorporated by the Contractor/Lessee into the overall plan.

**e.** The Contractor/Lessee shall not conduct or permit its approved sublessees to conduct any subsurface excavation, digging, drilling, or other disturbance of the surface without the prior written approval of the said officer.

**g.** The Contractor/Lessee shall strictly comply with the hazardous waste requirements under the Resource Conservation and Recovery Act (RCRA), which is enforced by the Environmental Protection Agency and Georgia Department of Natural Resources. Except as specifically authorized by the said officer in writing, the Contractor/Lessee must provide at its own expense compliance with all hazardous waste management laws and regulations. Government hazardous waste storage facilities will not be available to the Contractor/Lessee. Any violation of the requirements of this condition shall be deemed a material breach of the lease.

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**h.** The Contractor/Lessee will not use Fort Stewart accumulation points for hazardous and other wastes, or permit its hazardous wastes to be commingled with hazardous waste of the Department of the Army.

**i.** The Contractor/Lessee shall not use the premises for the storage or disposal of non-Department of Defense owned hazardous or toxic materials, as defined in 10 U.S.C. 2692, unless authorized under 10 U.S.C. 2692 and properly approved by the Government.

**j.** The Contractor/Lessee shall comply with the provisions of any health and safety plan in effect under the Fort Stewart Installation Restoration Program (IRP) during the course of any response or remedial actions conducted by the Government. Any inspection, survey, investigation, or other response or remedial action by the Government will, to the extent practicable, be coordinated with representative designated by the Contractor/Lessee. The Contractor/Lessee shall have no claim on account of such entries against the United States or any officer, agent, employee, contractor, or subcontractor thereof. In addition, the Contractor/Lessee shall comply with all applicable Federal, state, and local occupational safety and health regulations.

**k.** The said officer may impose any additional environmental protection conditions and restrictions during the terms of this lease that he deems necessary by providing written notice of such conditions or restrictions to the Contractor/Lessee.

**25. HISTORIC PRESERVATION**

The Contractor/Lessee shall not remove or disturb, or cause or permit to be removed or disturbed, any historical, archeological, architectural or other cultural artifacts, relics, remains or objects of antiquity. In the event such items are discovered on the premises, the Contractor/Lessee shall immediately notify said officer and protect the site and the material from further disturbance until said officer gives clearance to proceed.

**26. SOIL AND WATER CONSERVATION**

The Contractor/Lessee shall maintain, in a manner satisfactory to said officer, all soil and water conservation structures that may be in existence upon said premises at the beginning of or that may be constructed by the Contractor/Lessee during the term of this lease, and the Contractor/Lessee shall take appropriate measures to prevent or control soil erosion within the premises. Any soil erosion occurring outside the premises resulting from the activities of the Contractor/Lessee shall be corrected by the Contractor/Lessee as directed by the said officer.

**27. COVENANT AGAINST CONTINGENT FEES**

The Contractor/Lessee warrants that no person or selling agency has been employed or retained to solicit or secure this lease upon an agreement or understanding for a commission,

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percentage, brokerage, or contingent fee, excepting bona fide employees or established commercial or selling agencies maintained by the Contractor/Lessee for the purpose of securing business. For breach or violation of this warranty, the Secretary shall have the right to annul this lease without liability or, in its discretion, to require the Contractor/Lessee to pay, in addition to the lease rental or consideration, the full amount of such commission, percentage, brokerage, or contingent fee.

**28. OFFICIALS NOT TO BENEFIT**

No member of or delegate to Congress or Resident Commissioner shall be admitted to any share of part of this lease or to any benefits to arise therefrom. However, nothing herein contained shall be construed to extend to any incorporated company if this lease is for the general benefit of such corporation or company.

**29. SEVERAL CONTRACTOR/LESSEES**

If more than one Contractor/Lessee is named in this lease, the obligations of said Contractors/Lessees herein contained shall be joint and several obligations.

**30. BANKRUPTCY PROVISIONS**

**a. Waiver of Automatic or Supplemental Stay.** In the event of the filing of any voluntary or involuntary petition under the U.S. Bankruptcy Code (the "Bankruptcy Code") by or against the Contractor/Lessee (other than an involuntary petition filed by or joined in by the Secretary), the Contractor/Lessee shall not assert, or request any other party to assert, that the automatic stay under Section 362 of the Bankruptcy Code shall operate or be interpreted to stay, interdict, condition, reduce or inhibit the ability of the Secretary to enforce any rights he has by virtue of this lease, or any other rights that the Secretary has, whether now or hereafter acquired, against any party responsible for the debts or obligations of the Secretary under this lease. Further, the Contractor/Lessee shall not seek a supplemental stay or any other relief, whether injunctive or otherwise, pursuant to Section 105 of the Bankruptcy Code or any other provision therein to stay, interdict, condition, reduce or inhibit the ability of the Secretary to enforce any rights he has by virtue of this lease against any party responsible for the debts or obligations of the Secretary under this lease. The waivers contained in this paragraph are a material inducement to the Secretary's willingness to enter into this lease and the Contractor/Lessee acknowledges and agrees that no grounds exist for equitable relief which would bar, delay or impede the exercise by the Secretary of the Secretary's rights and remedies against the Contractor/Lessee or any party responsible for the debts or obligations of the Secretary under this lease.

**b. Bankruptcy Acknowledgment.** If any or all of the premises or any interest in the premises becomes property of any bankruptcy estate or subject to any state or Federal insolvency proceeding, then the Secretary shall immediately become entitled, in addition to all other relief to which the Secretary may be entitled under this lease, to obtain (1) an order from the Bankruptcy

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Court or other appropriate court granting immediate relief from automatic stay pursuant to Section 362 of the Bankruptcy Code so to permit the Secretary to pursue his rights and remedies against Contractor/Lessee as provided under this lease and all other rights and remedies of the Secretary at law and in equity under applicable state law, and (2) an order from the Bankruptcy Court prohibiting the Contractor/Lessee's use of all "cash collateral" as defined under Section 363 of the Bankruptcy Code. In connection with such Bankruptcy Court orders, the Contractor/Lessee shall not contend or allege in any pleading or petition filed in any court proceeding that the Secretary does not have sufficient grounds for relief from the automatic stay. Any bankruptcy petition or other action taken by the Contractor/Lessee to stay, condition, or inhibit the Secretary from exercising his remedies are hereby admitted by the Contractor/Lessee to be in bad faith and the Contractor/Lessee further admits that the Secretary would have just cause for relief from the automatic stay in order to take such actions authorized under state law.

**31. MODIFICATIONS**

This lease and Contract No. SP0600-00-0066 contain the entire agreement between the parties hereto, and no modification of this agreement, or waiver, or consent hereunder shall be valid unless the same be in writing, signed by the parties to be bound or by a duly authorized representative and this provision shall apply to this condition as well as all other conditions of this lease.

**32. EXCAVATION FOR UNDERGROUND UTILITY OR COMMUNICATION LINES**

Any excavation performed by the Contractor/Lessee in the placement of underground utility or communication lines within the Premises shall be coordinated with the Directorate of Logistics and Engineering (DLE), Engineering Division, Fort Stewart, for the issuance of a "digging permit." Approval of a digging permit shall be obtained prior to the execution of any work by the Contractor/Lessee. The point of contact is the DLE Civil Engineer at phone number (912) 767- . Upon completion of all utility line placement, the Contractor/Lessee shall provide the said officer as-built construction drawings including, but not limited to, site maps showing the approximate location of utility and/or communication lines. Drawings shall be furnished within fifteen (15) days of the completion of all work. As a minimum, drawings shall indicate the approximate horizontal distance to utility lines as measured from road edges, buildings, or other permanent items of real property along with the approximate vertical distance to the utility lines measured from finished graded level. Line sizes and construction material shall also be annotated on the drawings. Failure to fully conform and comply with all of the stipulations described herein will be considered as non-compliance with the full terms of this lease.

**33. DISCLAIMER**

This lease is effective only insofar as the rights of the United States in the premises are concerned, and the Contractor/Lessee shall obtain any permit or license which may be required



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by Federal, state, or local statute in connection with the use of the premises. It is understood that the granting of this lease does not preclude the necessity of obtaining a Department of the Army permit for activities which involve the discharge of dredge or fill material or the placement of fixed structures in the waters of the United States, pursuant to the provisions of Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

**34. LESSEE PERFORMANCE**

The failure of the Government to insist, in any one or more instances, upon strict performance of any of the terms, covenants, or conditions of this lease shall not be construed as a waiver or relinquishment of the Government's right to require the future performance of any such terms, covenants, or conditions, but the obligations of the Contractor/Lessee with respect to such future performance shall continue in full force and effect.

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**THIS LEASE** is not subject to Title 10, United States Code, Section 2662, as amended.

**IN WITNESS WHEREOF**, I have hereunto set my hand by authority of the Secretary of the Army, this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_

Witnesses:

\_\_\_\_\_

\_\_\_\_\_

**THIS LEASE** is also executed by the Contractor/Lessee this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

**«LESSEE\_NAME»**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Witnesses:

\_\_\_\_\_

\_\_\_\_\_

**CORPORATE CERTIFICATE**

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I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of  
«LESSEE\_NAME»; that \_\_\_\_\_ who signed the foregoing lease on  
behalf of the company was then \_\_\_\_\_ of the company. I further certify  
that the officer was acting within the scope of powers delegated to this officer by the governing  
body of the company in executing said lease.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

(SEAL)

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**ACKNOWLEDGMENT**

STATE OF GEORGIA

COUNTY OF CHATHAM

Before me a Notary Public in and for the State of Georgia, County of Chatham, personally appeared \_\_\_\_\_, who being duly sworn says that he/she saw the within named \_\_\_\_\_ sign the attached and foregoing lease by authority of the Secretary of the Army for the purpose herein expressed as the act and deed of the United States of America, and that he/she with \_\_\_\_\_ witnessed the execution of the same.

SIGNATURE: \_\_\_\_\_

Sworn to and subscribed before me

this \_\_\_\_\_ day of \_\_\_\_\_,

2000.

\_\_\_\_\_  
Notary Public  
Chatham County, Georgia

My Commission Expires:

\_\_\_\_\_

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